

Chander Prakash Wadhwa vs State (Govt. Of Nct Of Delhi) & Anr on 14 May, 2020

Author: Suresh Kumar Kait

Bench: Suresh Kumar Kait

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 900/2020 (URGENT)
CHANDER PRAKASH WADHWA Petitioner
Represented by: Mr. L. K. Singh, Adv.
Versus
STATE (GOVT. OF NCT OF DELHI) & ANR. Respondents
Represented by: Mr. Izhar Ahmed, APP for
State.
CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
ORDER

% 14.05.2020

1. The hearing has been conducted through video conferencing.
2. Allowed subject to all just exceptions.
3. Application is disposed of.
4. Vide the present petition, the petitioner prays as under:-

(a) Quash and set aside the impugned order dated 08.05.2020 passed by Ld. Duty M.M. (East), Karkardooma Courts, Delhi in case vide FIR No. 178/2017, P.S-EOW, u/s 406/409/420/120-B IPC, titled as State Vs. Chander Prakash Wadhwa.

(b) Declare the action of respondent no.2 in not releasing the petitioner on 06.05.2020 from Mandoli Jail, Delhi as illegal and arbitrary amounting to non-compliance of the release warrant dated 06.05.2020 passed by the Ld. Duty M.M., Karkardooma Courts, Delhi.

(c) Direct the respondent no.2 to release the petitioner from Mandoli BAIL APPLN. 900/2020 Page 1 of 4 Jail in compliance of release warrant dated 06.05.2020 with a further observation that the period of 60 days of interim bail shall be reckoned to commence w.e.f. the date of his release.

5. Notice issued.

6. Learned APP accepts notice and has opposed the present application on the ground that Production Warrants had earlier been issued for the accused in another outside Delhi case vide order dated 06.03.2020 by Ld. ASJ, (Special Judge), PMLA, Lucknow returnable for 16.03.2020. Thereafter, the Jail Authority, Mandoli Jail has also received a correspondence dated 06.05.2020 from Directorate of Enforcement (E.D.), Lucknow Zonal Office asking the Jail Authority not to release the petitioner because of him being an accused in another case u/S 3/4 PMLA Act before (Special Judge) PMLA, Lucknow.

7. Case of the petitioner is that the petitioner as per production warrant dated 06.03.2020, was to be produced before PMLA Court, Lucknow on 16.03.2020. However, said production warrant was not executed by E.D., Lucknow and when the interim bail was granted to the accused on medical grounds in the present case, vide order dated 30.04.2020, there was no production warrant alive as regard to the proceedings stated to be pending before PMLA Court, Lucknow. Therefore, merely on the request expressed by E.D. Lucknow via its official correspondence dated 06.05.2020 not to release the petitioner, neither the Jail Authorities nor the Ld. Duty M.M. vide the Impugned order had any valid jurisdiction for not releasing the petitioner on bail and for not complying with order dated 30.04.2020 by Ld. ADJ, Karkardooma Courts, Delhi.

8. Since the petitioner was not released as per directions of the Court BAIL APPLN. 900/2020 Page of 2 of 4 granting him interim bail, the Duty Magistrate sought reply from Jail Superintendent for not complying with release warrants dated 06.05.2020 and in reply thereto, he sent letter dated 07.05.2020 to Duty Magistrate whereby stated as under:-

"On dated 06.05.2020, this office received the release order of the above said accused namely Chander Prakash S/o M.C. Wadhwa in case FIR No. 178/2017 u/S 420/409/406/120B IPC P.S. EOW by the Hon'ble Court of Sh. Balwinder Singh, MM-02, Room No. 26, Karkardooma Courts, Delhi and as per the production warrant received from the Hon'ble Court of Addl. Session Judge, Lucknow, Uttar Pradesh he is also facing trial in case Crime No.266/2020ECIR/06/PMLA/LKZO/2019 U/s 3/4PMLA P.S. ED LKO.

On dated 06.05.2020 after securing bail in Delhi case FIR No. 178/2017 u/s 420/409/406/120B IPC P.S. EOW (East), this office sent a wireless message to DCP, DAP 03rd BN to transfer the accused to Lucknow in Safe and Secure Custody.

It is further submitted that, on 06.05.2020 this office sent a letter to the Hon'ble Court of Lucknow, Uttar Pradesh for seeking the current case status of the accused in case Crime No. 266/2020ECIR/LKZO/2019 under Section 3/4 PMLA, PS ED, LKO. Accordingly, on 06.05.2020 this office has communicated to Directorate of Enforcement, Lucknow, Uttar Pradesh regarding the release of the accused in case FIR No. 178/2017 u/s 420/409/406/120B IPC P.S. EOW (East).

On dated 06.05.2020, this office has received a letter from the Directorate of Enforcement, Lucknow, Uttar Pradesh through Email stating "not to release the above said accused namely Chander Prakesh s/o M.C. Wadhwa in outside Delhi case Crime No. 266/2020ECIR/LKZO/2019

under Section 3/4 PMLA, PS BAIL APPLN. 900/2020 Page of 3 of 4 ED, LKO."

9. Keeping in view the aforementioned averments, I am of the considered opinion that since the interim bail was granted to the petitioner by Ld. ADJ, no live production warrant is there as on date against the petitioner. The Jail Superintendent is directed to release the petitioner on interim bail for a period of 60 days on medical grounds upon furnishing personal bond of Rs.50,000/- before the Jail Superintendent and surety of the same amount shall be submitted as and when the Trial Court resumes its normal functioning.

10. Keeping in view of above, the petition is disposed of.

11. It is made clear that period of 60 days shall be counted from the date of release.

12. It is further made clear that meanwhile, if any production warrant is issued and the concerned authority wishes to take the petitioner into custody, the concerned authority shall take steps before the appropriate forum for the same.

13. It is further made it clear that the petitioner shall surrender himself before the jail authorities on the completion of 60 days.

14. Copy of this order be transmitted to the Jail Superintendent and concerned Trial Court for necessary compliance.

15. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

MAY 14, 2020/ms

SURESH KUMAR KAIT, J

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