

Sajjan Kumar vs The State Nct Of Delhi on 25 September, 2020

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

via Video-conferencing

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPL. 2333/2020

SAJJAN KUMARApplicant

Through: Mr. Harsh Vardhan Sharma , Adv.

versus

THE STATE NCT OF DELHIRespondents

Through: Ms. Neelam Sharma, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER

% 25.09.2020 The applicant, who is an undertrial in case FIR No. 474/2013 dated 08.08.2013 registered under sections 307/34 IPC at PS : Mangol Puri, seeks interim bail based upon the criteria laid-down in Minutes of Meeting dated 18.05.2020 of the High Powered Committee (HPC) appointed by the Delhi High Court in view of the prevailing coronavirus pandemic.

2. Notice in this application was issued on 25.08.2020.

3. Status report dated 23.09.2020 is stated to have been filed but is lying under objections in the Registry. A copy has been forwarded by Ms. Neelam Sharma, learned APP for the state via e-mail; and has been perused.

4. Let the status report be brought on record.

5. Nominal roll dated 22.09.2020 has also been received from the Jail Superintendent.

6. Mr. Harsh Vardhan Sharma, learned counsel for the applicant submits that the applicant has been in judicial custody since 08.08.2013, that is for more than 7 years; that trial in the matter is complete, except final arguments are to be addressed, which are getting delayed by reason of the restricted functioning of courts due to the prevailing pandemic.

7. Mr. Sharma points-out that, as evident from the nominal roll, the applicant has no other or prior

criminal involvement; that he has availed interim bail only once i.e. between 18.08.2017 to 24.08.2017 and his overall jail conduct is 'satisfactory' except for one punishment awarded on 30.05.2017 for misbehavior with the Delhi Armed Police staff.

8. Accordingly, it is contended that the applicant fulfils all criteria laid-

down in the HPC Minutes of Meeting dated 18.05.2020.

9. Ms. Neelam Sharma opposes the grant of interim bail stating that the applicant has a central role in the offence alleged, and though final arguments are yet to be made in the trial, it is likely that the applicant will be convicted. She further points-out that interim bail applications moved by the applicant before the learned Sessions Court have been dismissed by orders dated 23.05.2020 and 30.05.2020.

10. It is seen that order dated 23.05.2020 aforesaid records that though the applicant satisfies the criteria contained in HPC Minutes of Meeting dated 18.05.2020 recommended for interim bail, but that such bail application ought to have been moved through the panel lawyers of the Delhi State Legal Services Authority after due verification; and inter-alia since that was not the case, the High Powered Committee recommendations would not apply; and further that since the trial is at its final stages, it will not take long for the main case to be disposed of. Similar appears to be the reasoning of the subsequent order dated 30.05.2020. In both orders however, it appears that the rationale and basis for the criteria laid-down in the guidelines and recommendations of the HPC have not been appreciated.

11. Upon a conspectus of the facts and circumstances, it is seen that the applicant does fulfil all criteria set-down by the HPC vidé its Minutes of Meeting dated 18.05.2020; and there is no other reason why the applicant should not be entitled to the benefit of the same.

12. Accordingly, this court is persuaded to grant to the applicant interim bail for a period of 45 (forty-five) days from the date of his release, subject to the following conditions:

- a. The applicant shall furnish a personal bond in the sum of Rs.25,000/- (Rupees Twenty-five Thousand) with 01 surety in the like amount from a family member, to the satisfaction of the Trial Court;
- b. The applicant shall not leave the State of Delhi without permission of the court and shall ordinarily reside at the address mentioned in this application;
- c. The applicant shall furnish to the I.O./SHO a cell phone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched- on at all times;
- d. The applicant shall present himself before the I.O./SHO every Wednesday between 11 am and 11:30 am to mark his presence. However, he will not be kept waiting for

longer than one hour for this purpose;

e. If the applicant has a passport, he shall also surrender the same to the Trial Court;

f. The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to the first informant/ complainant or to any of the prosecution witnesses. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter; g. Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.

13. Nothing in this order shall be construed as an expression on the merits of the pending trial.

14. The bail application is disposed of in the above terms.

15. Other pending applications, if any, also stand disposed of.

16. A copy of the order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 25, 2020/uj