

Kamlesh Kothari vs State (Nct Of Delhi) & Anr on 29 April, 2022

Author: Prateek Jalan

Bench: Prateek Jalan

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 4262/2021

KAMLESH KOTHARI

Through:

Mr. Karuppaiah
Advocate.

....
Me

versus

STATE (NCT OF DELHI) & ANR.

..... Responde

Through: Mr. Akhand

Pratap Sin

Advocate for Ms. Nandita Rao,
ASC for the State with Insp.
Pradeep Rai, SI Ritesh, PS- EOW.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 29.04.2022 The proceedings in the matter have been conducted through virtual mode.

CRL.M.A. 8165/2022 (directions)

1. By an order dated 22.04.2022, in CRL.M.A. 437/2022, this Court granted the applicant permission to travel to Chennai on custody parole to meet his family upon the death of his father. The operative portion of the order is as follows: -

"6. Mr. P.P. Chaudhary, learned Senior Counsel for the applicant, submits that the applicant may be granted custody parole at least for a period of one week.

7. Having heard learned counsel for the parties, perused the Status Report and having regard to the provisions of Section 21(4) of MCOCA, I am of the view that Ms. Rao's submission that the applicant be released only on custody parole is justified. In view of the fact that the applicant's father has passed away in Chennai, and his family resides there, the custody parole is directed for a period of three days.

8. It is directed that the applicant be taken in custody to his residential address, i.e. House No. 21, Dr. Sadasivam Road, Thyagaraya Road, Chennai-600017. The

applicant is permitted to travel to Chennai on 24.04.2022 and will be brought back two days thereafter i.e. on 26.04.2022. The applicant will remain at the aforesaid address during the period of his stay in Chennai."

2. The Jail Superintendent thereafter submitted a report dated 24.04.2022 to the Court, which reads as follows: -

"This is in reference to the Hon'ble High Court Order dated 22.04.2022 received in this office regarding custody parole of the above mentioned accused on dated from 24.04.2022 to 26.04.2022 at his residential address of Chennai subject to payment of requisite charges, as per rules. In this regard, it is submitted that the accused received the copy of the custody parole order issued by the Hon'ble Court. Further, the accused has refused to avail his custody parole owing to the shortage of stay time period. Further, the acknowledgement regarding the same submitted by the accused is enclosed herewith for the kind perusal to the Hon'ble High Court.

Along with the said report, a handwritten letter of the applicant was attached, which reads as follows:

"This is in regard of cancelling my custody parole to Chennai for 3 days for my fathers death. I am told that I will reach Chennai only on 26th April early morning and I have to leave the same day after spending few hours with my grieving family if I travel by train and if I travel by flight its going to cost me 3,50,000-4,00,000 since eight police officers will accompany me with weapons. I request the Honourable High Court to cancel my custody parole and accept my apologies. Regards"

3. On 25.04.2022, the Court directed that copies of this communication be transmitted to learned counsel on record for the applicant and the learned Additional Standing Counsel for the State.

4. The present application has now been filed on behalf of the applicant seeking the following reliefs: -

"(a) pass an order clarifying the order dated 22.04.2022 passed in Crm.M.A.No.437 of 2022 in Bail Application No.4262/2021 while specifying the mode of transport;

(b) pass an order directing minimum required police escorts to wear civilian clothes during the parole period; and

(c) pass such other and/or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

5. The contention in the application is that the authorities were insisting on opting only for rail travel, which was impracticable given the duration of custody parole permitted by this Court. The applicant has also stated that it would be difficult to accommodate eight police escorts at his place of

residence.

6. It appears from the handwritten document transcribed above that this position is incorrect, as the applicant was given the option of air travel, which he found too expensive. The applicant therefore declined to avail of the custody parole granted by this Court. Mr. Karuppaiah Meyyappan, learned counsel for the applicant, now requests that the applicant be permitted to travel by air, alongwith the required number of police escorts, so that he can maximize the time available to him with his grieving family. Mr. Meyyappan undertakes on behalf of the applicant and his pairokar, who is his brother, that the costs will be borne by them, and that they are aware of the costs.

7. Given the nature of the offences for which the applicant is being tried, the second contention, regarding reduction in the number of police escorts, is not warranted and is not pressed by Mr. Meyyappan.

8. The application is disposed of with the clarification that the applicant may travel from Delhi to Chennai by air on 04.05.2022 and return by air on 06.05.2022. No other modifications are considered necessary, except to direct that the police escorts may wear civilian clothes while stationed at the applicant's residence.

9. The application is disposed of with these directions.

10. A copy of this order be transmitted to the concerned Jail Superintendent.

List on the date fixed, i.e. 19.07.2022.

PRATEEK JALAN, J APRIL 29, 2022 'Bhupi' Click here to check corrigendum, if any