

## Vikas Yadav vs State (Nct Of Delhi) & Ors on 25 August, 2020

**Author: Vibhu Bakhru**

**Bench: Vibhu Bakhru**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
W.P. (CRL) 1020/2020  
VIKAS YADAV

Through: Mr Siddharth Yadav, Adv

versus

STATE (NCT OF DELHI) & ORS. .... Respon

Through: Mr Rajesh Mahajan, ASC (Crl.),  
GNCTD with Ms Jyoti Babbar,  
Advocate for R-1.  
Mr P. K. Dey with Ms S. Chakrab  
and Ms Shilpi Dey Auditya,  
Advocates for R-2.  
Mr Ajay Katara and Ms Nilam Kat  
in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU  
ORDER

% 25.08.2020 [Hearing held through video conferencing]

1. The petitioner has filed the present petition impugning an order dated 26.06.2020 passed by respondent no.1, whereby the petitioner's request for parole was rejected.

2. A plain reading of the said order indicates that the petitioner had sought parole, inter alia, on the ground to take care of his mother, who he stated was suffering from spinal medical condition along with thyroid and inner stress causing her depression. The petitioner also claimed that he is suffering from mental trauma due to incarceration for more than eighteen years and he requires parole to connect with his family members and maintain family and social ties.

3. The impugned order indicates that the competent authority had considered the comments received from the objectors (Ajay Katara and Nilam Katara) and had rejected the petitioner's application for parole in view of those comments.

4. During the course of the arguments on prior hearings, it was contended on behalf of the petitioner that the petitioner's mother is ailing and there is nobody to look after her. It was stated that her daughter (petitioner's sister) is residing in Gurgaon and her son (petitioner's younger brother) is

residing in Punjab.

5. Mr Yadav, learned counsel appearing for the petitioner now contends that it is not the petitioner's case that his younger brother is residing in Punjab but merely that he is residing separately. This contention is advanced as the status report now filed clearly establishes that the petitioner's younger brother is predominantly residing in Delhi. He has minor children that go to school in Delhi. The analysis of the CDR indicates that most of the time he is in Delhi.

6. It has been ascertained that the petitioner's younger brother lives in the same property (Vasant Kunj) as their mother. Mr Yadav submits that although his house is in the same compound but it is separate from the farmhouse in which their mother resides. In view of the above, the principal contention advanced on behalf of the petitioner that he is required to look after his mother as there was no one to look after his mother, is plainly unmerited.

7. Mr Yadav had also contended that the petitioner has been in continuous custody for eighteen years and he ought to be released on humanitarian grounds to reconnect with his family. This contention is also unpersuasive. The contention that the petitioner has been in continuous custody of eighteen years is not entirely accurate. This is so because during the said period, it was found that the petitioner had been admitted to the All India Institute of Medical Sciences and his visits extended to more than hundred days. On further investigation, it was found that he did not confine himself to the hospital but was found near Vasant Kunj. It is pointed out that the call records of the security officials assigned to secure the petitioner also establish that they were at his farmhouse in Vasant Kunj. The contention that the petitioner had used his influence to move to his house on the pretext of availing medical treatment at AIIMS was found to be merited.

8. Mr Ajay Katara, who has joined the proceedings, submitted that if the petitioner is released on parole, the petitioner would ensure that he is killed. He submitted that he feared for his life and on prior occasions attempts on his life were made because he had testified against the petitioner. Ms Nilam Katara (mother of the deceased who was murdered by the petitioner) has also joined the proceedings. She has pointed out several instances from the record indicating that the petitioner had misused his liberty whenever the same was granted.

9. Mr Yadav submitted that both the Objectors had been provided security and they had no reason to fear for their safety.

10. Considering the past conduct of the petitioner, the apprehension that he would misuse his liberty cannot be stated to be unfounded. In any view, the contention that he has been in custody for a period of eighteen years without any liberty, is plainly unpersuasive. Even though, the petitioner has been in custody he had found ways to avoid rigors of custody.

11. Further merely because the objectors have been granted security does not imply that their apprehensions are insubstantial.

12. In addition, the medical documents of the petitioner's mother were verified and the status report indicates that there are certain doubts regarding the same.

13. The documents supplied by the petitioner indicate that the petitioner's mother had visited the Lok Nayak Hospital on three occasions; on 30.01.2019, 26.09.2019 and 18.11.2019. The call records of the petitioner's mother for 30.01.2019 are not available but her call records pertaining to 26.09.2019 indicate that she was not anywhere near the said hospital on that date. The status report indicates that on further analysis of the call records it was found that she was in touch with her nephew (son of the brother of her husband) Dr Ved Pal Yadav, who was at the material time posted at Sushruta Trauma Centre (which is next to Lok Nayak Hospital). The petitioner's mother was in frequent touch with him at the material time. It is found that his call records indicate that he was at Lok Nayak Hospital at the material time. Further the Pre Anesthetic Evaluation Report is incomplete as the police officials have not been able to ascertain the person who had prepared the same. This is because the last page of those documents is missing from the records of the hospital.

14. Mr Mahajan, submits that on inquiries from the petitioner's mother she had stated that she had visited the Lok Nayak Hospital without being referred by anybody and she did not know nobody at the hospital. But, on further inquiries the said statement was found to be incorrect as her nephew was employed at Sushruta Trauma Centre and after June, 2020 he is employed with Lok Nayak Hospital. Both the centres are autonomous. However, they are in close proximity and the doctors serving at the said institutions are from the same pool. Further Sushruta Trauma Centre was started as an adjunct of Lok Nayak Hospital.

15. The medical documents from SRS Multi Speciality Hospital were also verified. The said documents indicated that the petitioner's mother was admitted to the said hospital on two occasions. However, it was found from her call record records that during the relevant period she was not at that hospital. Further, the analysis of the call details of her driver and maid who accompany her also indicate that they were also not in the vicinity of the said hospital. Inquiries further revealed that the said hospital belongs to brother of the petitioner's father and is run by Dr Ritu Singh, who is a wife of Dr Ved Pal Yadav. As noticed earlier, Dr Ved Pal Yadav is the son of the elder brother of the petitioner's father.

16. More importantly, the call detail record indicates that the petitioner's mother has been travelling extensively. There are a number of visits from Delhi to various parts of UP including Ghaziabad.

17. In view of the above, the contention that the petitioner requires to attend to his mother as there is no one to look after cannot be accepted. First of all, the petitioner's mother is not immobile as was suggested. Secondly, she has a sufficient number of relatives to look after her.

18. Mr Yadav has earnestly contended that the petitioner has been unable to meet his mother for many years as he has not been released from custody. This argument also has little appeal considering that nothing precludes the petitioner's mother to visit him in jail.

19. Considering the above and considering that the objectors (Ajay Katara and Ms Nilam Katara) have serious objections to the petitioner being released as they fear of their safety, this Court is not persuaded to accede to the prayers made in the present petition.

20. The impugned order cannot be faulted. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J AUGUST 25, 2020 MK