

Om Prakash Rathi vs State on 26 February, 2020

Author: Suresh Kumar Kait

Bench: Suresh Kumar Kait

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2992/2019

OM PRAKASH RATHI

..... Petitioner

Through

Ms. Meena Chaudhary Sharma with
Mr. Amit Nahata, Advs.

versus

STATE

..... Respondent

Through

Mr. Amit Chadha, APP for State

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% 26.02.2020

1. Vide present petition, petitioner seeks anticipatory bail in the event of his arrest in FIR No. 524/2019 dated 23.10.2019 registered at Police Station Bawana, District Outer North.
2. Case of prosecution is that complainant has stated in his complaint that his father, namely Yogender Singh, was found hanging around 3:00 PM on 23.10.2019 and one written note was also recovered from his pocket by the complainant, in which it was written that detailed suicide note is in shop of the deceased.
3. Complainant further stated that his mother told him that Om Prakash Rathi, petitioner herein, came to their residence 10-12 days back and had an altercation with his father (now deceased) and also abused him, due to which, his father remained disturbed as he felt insulted from the conduct of petitioner.
4. It is also stated in complaint that another person, namely Vinay Kumar @ Anil, took an amount of Rs. 38,00,000/- (Rupees Thirty Eight Lakhs Only) from deceased on the pretext of providing jobs to his family members, but he did not provide any job. Moreover, when deceased demanded his money back from said Vinay Kumar @ Anil and Ravinder, they started making excuses on one pretext or another and also both of them stopped picking up his phone.
5. Further case as per the complainant is that he alongwith his father went to the house of Vinay Kumar and Ravinder many times demanding return of his money, but Vinay used to abuse and misbehave with the deceased and one time Vinay grabbed the collar of deceased and threw him out

of his house in front of complainant and flatly refused not to return said amount to him and stated that "SALE TU MAR JA MERE GHAR KABHI MAT ANA". Consequently, the present case was registered.

6. Learned counsel appearing for petitioner submits that petitioner was Managing Director of trust namely Jagat Ganga Ram Charitable Trust, alongwith 25 other trustees. The said trust decided to build a charitable hospital and for that purpose they took land on lease at Auchandi Village and started construction of hospital in the year 2016. After construction of the ground and first floor, deceased approached petitioner for a job and the trust appointed him as a cashier. After construction of the hospital completed and it started running, deceased started taking money from other people of the village on pretext of making them members of said trust and cheated them. He misappropriated funds of the hospital and ultimately in November 2018, the hospital was closed due to non-availability of funds, as the management failed to even clear the dues.

7. Learned counsel for petitioner further submits that deceased, who was aged about 65 years, was suspended from the occupation of driver in Delhi Police and had committed many frauds earlier also. He was suffering from last stage of prostate cancer and apart from this, he had undergone a bypass surgery.

8. It is further submitted that the alleged suicide note, which was given by complainant to the police at later stage, was manipulated, however, not recovered from the pocket of deceased.

9. It is an admitted fact that complainant did not give any statement to the police when they met him at hospital and later on, a written complaint was submitted by him along with alleged suicide note, which has created a serious doubt on the story of complainant. Alleged suicide has been sent to FSL for verification of handwriting of the deceased.

10. On perusal of FIR, there is no allegation against petitioner as he neither instigated nor provoked deceased to commit suicide and the only allegation against petitioner is that he misbehaved with deceased, 10-12 days prior to the incident.

11. In this case, Section 306 IPC is relevant and is reproduced as under:-

"if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine".

12. Section 107 IPC which defines abetment is reproduced as under:-

"A person abets the doing of a thing, who- (Firstly) - Instigates any person to do that thing; or (Secondly) - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (Thirdly) - Intentionally aids, by any act or illegal omission, the doing of that thing."

13. In the present case, allegation against petitioner is only that he misbehaved with the deceased, 10-12 days prior to his suicide. Thus, there was no instigation, provocation or abetment to commit suicide by him.

14. In addition to above, main allegations are against Vinay Kumar with whom deceased earlier had an altercation, however, complainant has compromised and written letter to SHO concerned that due to some communication gap, he named Vinay Kumar.

15. However, without commenting on merits of prosecution case, this Court is of the considered view that present case is fit for anticipatory bail.

16. Accordingly, the SHO/ Arresting Officer/IO concerned, is hereby directed that in the event of arrest, petitioner/ applicant shall be released on bail on the following terms and conditions:-

(i) Petitioner shall furnish a personal bond in the sum of 25,000/-

with one surety in the like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned;

(ii) Petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required;

17. In case of default of aforementioned conditions, the State is at liberty to take appropriate recourse in accordance with law.

18. Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on merits of the case.

19. Petition is, accordingly, allowed and disposed of.

20. Order dasti under signatures of the Court Master.

SURESH KUMAR KAIT, J FEBRUARY 26, 2020 ms