

Vinod Bansal vs State & Anr on 15 May, 2020

Author: Hima Kohli

Bench: Hima Kohli, Subramonium Prasad

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P. (CRL.) 802/2020

VINOD BANSAL

.....Petitioner

Through: Mr. Anuj Chauhan, Advocate.
versus

STATE & ANR.

....Respondents

Through: Mr. Rahul Mehra, SC (Crl.) with
Mr. Chaitanya Gosain, Advocate
Mr. Vinod Jakhu, Supdt. Jail, Tihar

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% 15.05.2020 HEARD THROUGH VIDEO CONFERENCING.

1. The present petition has been filed by the petitioner as a writ of habeas corpus praying inter alia for issuing directions to the respondent/Delhi Police to release him forthwith on the ground that he has been granted bail in all the 39 cases registered against him in Delhi.

2. Mr. Chauhan, learned counsel for the petitioner submits that as per his instructions, there are about 11 cases pending against the petitioner and he was arrested in 10 cases, all arising in Delhi. Subsequently, the petitioner was either granted regular bail or interim bail in all the said 10 cases pending in various courts in Delhi, thus leaving one case pending in the Agra Court i.e., CC No.3300/2016, under Section 138 of the Negotiable Instrument Act (in short 'N.I. Act'). However, it has transpired from the Status Report filed by the State that the petitioner is involved in 40 cases.

3. Learned Standing Counsel (Crl.), GNCTD states that during the incarceration of the petitioner at Tihar Jail, a production warrant was sent by the District Court, Agra, U.P. calling upon the Jail Superintendent to produce the petitioner before the said Court, but the said production warrant could not be executed as on the first occasion, the petitioner was required to be produced on 27.1.2020, but due to the Republic Day celebrations and pre-occupation therewith, he could not be produced before the concerned Court at Agra. On the second occasion, the petitioner was required to be produced before the concerned court at Agra on 25.2.2020, but this time, the production warrants were received at the last minute due to which the same could not be executed. Thereafter, despite the efforts made by the Jail authorities to verify the next date of hearing in the pending complaint case before the learned court at Agra, U.P., there has been no information forthcoming

and the jail authorities have been informed that Courts there are not functioning presently due to the COVID-19 pandemic. He submits that this is a private complaint that has been registered against the petitioner in the Court at Agra and therefore, the local SHO at Agra is also not in a position to throw any light on the next date of hearing in the matter.

4. Mr. Chauhan, learned counsel for the petitioner submits that the aforesaid ground can hardly be a reason to illegally detain the petitioner in jail when admittedly he has been granted interim bail/regular bail in all the 39 cases listed by the Delhi Police in the Status Report. He submits that the only case left is the private complaint case registered under Section 138 of the N.I. Act and pending before the Agra Court and in that light of the matter, the provision of Section 269 (c) of the Cr.P.C. would come to the aid of the petitioner. He has also cited Dharampal & Anr. vs. State of U.P. & Anr. reported as 1981 SCC OnLine All 756, to fortify his submission.

5. Section 269 (c) of the Cr.P.C. prescribes that where a person in respect of whom an order is made under Section 267, requiring attendance of a prisoner before a particular court, is in custody for a period that would expire before expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained, in those circumstances, the officer in charge of the prison must abstain from carrying out the Court's order and instead, should send a statement of reasons to the concerned court for the said absence.

6. Learned counsel for the petitioner emphasises that a private complaint under Section 138 of the N.I. Act is in any event a bailable offence and for the said reason too, there is no justification for detaining the petitioner any longer since he has been granted regular/interim bail in all other 39 cases pending against him as on date, in Delhi.

7. The aforesaid position is confirmed by Mr. Rahul Mehra, learned Standing Counsel (Crl.), GNCTD who states that if the Court is inclined to allow this petition, then the petitioner may be bound down to appear before the concerned Court at Agra and he be also directed to file an affidavit on the above lines not only before the Superintendent Jail, Tihar but also in present petition, upon being released.

8. We are of the opinion that the petitioner cannot be detained unendingly merely because the respondent/State was unable to execute the production warrants issued by the concerned Court at Agra, directing his presence, particularly, when efforts made by the respondent to verify the next date of hearing have not borne any fruitful result and we are informed that the concerned Court at Agra is not functioning due to the COVID-19 pandemic situation. In such circumstances, it is only just and fair that the petitioner be released forthwith on the condition that he furnishes a bond to the Superintendent Jail undertaking inter alia that he shall appear before the concerned Court at Agra in CC No. 3300/2016 on the next date of hearing. Immediately after the petitioner is released by the Jail authorities, he shall also file an affidavit in the present petition giving a similar undertaking to this Court. He is cautioned of the adverse consequences of violating the said undertaking.

9. The present petition is allowed and disposed of on the above terms.

This order shall be immediately uploaded on the website of the High Court and the same be also emailed to the learned counsel for the appellant and the learned Standing Counsel (Crl.) GNCTD, for information and compliance.

HIMA KOHLI, J.

SUBRAMONIUM PRASAD, J.

MAY 15, 2020 ap/rkb