

Gautam Jain vs State (Nct Of Delhi) on 2 December, 2015

Author: P.S.Teji

Bench: P.S.Teji

* IN THE HIGH COURT OF DELHI AT NEW DELHI
Judgment delivered on : December 02, 2015
+ BAIL APPLN. 2491/2015
GAUTAM JAIN Petitioner
Through: Mr.Michael Peter, Advocate
versus
STATE (NCT OF DELHI) Respondent
Through: Mr. G.M. Farooqui, Additional Public
Prosecutor for the State with
Inspector Parmjeet Singh, Police
Station Burari, Delhi.
CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 the petitioner seeks bail in a case registered vide FIR No. 383/13 under Section 302 IPC at Police Station Burari, Delhi.
2. The petitioner is charged with the offence punishable under Section 302 of IPC and is aggrieved by the order dated 5th October 2015, passed by the learned Additional Sessions Judge, Central, Delhi, vide which the bail application filed by the petitioner has been rejected.
3. The case of the prosecution is that one Mr. Kishan Lal (complainant herein) made a statement that on 21.09.2013, his 13 years old son - Jatin Dhingra went from the house at 11.30 AM for taking a copy from his one friend but he did not return home. Despite extensive search his son could not be traced out. The complainant in his complaint raised suspicion that someone lured Jatin Dhingra and took him away and the legal action should be taken against him. Accordingly, a case under Section 363 of IPC was registered and investigation started. Later, the mother of Jatin Dhingra informed that a ransom call for Rs.10 lac has been received on her mobile number (9718703685) from mobile No.8744806631 and also that the caller said that otherwise, he will kill her son. Thereafter, case under Section 364A of Indian Penal Code was also added. During investigation, it was revealed that said number belongs to one Manoj Kumar but it could not be traced as to who has made the ransom call from the said mobile number.

4. On the basis of statement of Manoj Kumar, the petitioner herein was arrested who disclosed that he had given Manoj's voter ID to his friend Sandeep Kumar, and Sandeep Kumar had told him that he has to kidnap a child and receive ransom and he also assured the petitioner that some share from the ransom amount will be given to him. Later on, after investigation it was found that the kidnapped boy was killed and his body was thrown in Canal (drain) at Nangli Puna and the offences under Section 419/468/471/302 Indian Penal Code were added.

5. Mr. Michael Peter, counsel for the petitioner contended that the applicant is neither a part of conspiracy in kidnapping the child nor in committing murder of the child. It is also contended that there is no recovery at the instance of the petitioner and nothing incriminating is found against the petitioner after examination of fourteen public witnesses. The ground of false implication in the case is also raised and it is also submitted that the petitioner is in judicial custody since 23.09.2013. At last it is also submitted that the petitioner is a permanent resident of Delhi and has deep roots in the society, therefore the petitioner ought to be granted bail in the aforesaid case.

6. To oppose the contentions raised by learned counsel for the petitioner, Mr. G.M. Farooqui, learned Additional Public Prosecutor for the State submitted that the petitioner is clearly involved in the conspiracy of kidnapping the child, with other co-accused persons and the chain of offence started from the petitioner herein, therefore the petitioner be not released on bail.

7. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State and also gone through the material placed on record.

8. After considering the contents of the present petition as well as the submissions made by counsel for the petitioner and learned Additional Public Prosecutor for the State, this Court observes that it was the petitioner who had provided the certificates of Manoj to the main accused - Sandeep and others, and it was the petitioner who was assured by co-accused Sandeep that he will be given his share out of the ransom amount received on account of kidnapping of the child. This Court also observes that out of 46 witnesses, only 14 witnesses are examined and it is also clear from the facts on record that the charge sheet of the case has already been filed and the petitioner has been charged with the offence punishable under Section 302 of IPC and since the trial is at an initial stage therefore, the tampering of the evidence cannot be ruled out.

9. In view of the aforesaid facts and circumstances of the present case, this Court is of the opinion that the petitioner - Gautam Jain does not deserve the concession of bail in this case, at this stage. Accordingly, the present application filed by the petitioner - Gautam Jain is dismissed at this stage.

10. It is made clear that the expression of any opinion hereinbefore may not be treated as an expression on the merits of the case.

(P.S.TEJI) JUDGE DECEMBER 02, 2015 pkb