

HIGH COURT OF DELHI AT NEW DELHI

Bail Application No. 2629/2007

Date of Decision:- September 12, 2008

Jagdeep Singh @ Vicky ... Petitioner
Through: Mr. O.P. Wadhwa with
Mr. Amrik Singh, Advs.

Versus

The State of NCT of Delhi ... Respondent
Through: Mr. A.K. Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE S.L. BHAYANA

1. Whether reporters of local paper may be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be referred in the Digest? Yes

S. L. BHAYANA, J.

The applicant, who has been arrested on 25.05.2005 in connection with FIR No. 223/2004, registered at P.S. Vikaspuri, under Sections 302/307/120B/34 IPC has filed this application under Section 439 Cr.P.C. for grant of regular bail as he is in jail since 25.05.2005.

2. Now coming to the merits of the present case. The case of the prosecution is that the present applicant Jagdeep

Singh @ Vicky in conspiracy with other co-accused namely Vikramjeet Singh Sethi and Jasbir Singh @ Goldy with the help of one Manohar Singh @ Lucky committed murder of one Ranjeet Singh Sethi @ Happy. As per prosecution case Jagdeep Singh at the instance of one Jasbir Singh Sodhi resident of London, with whom he had gone together on 6.5.2004 from Delhi to Dubai and planned the murder taking an amount of Rs. 20 lacs to eliminate Happy Sethi, deceased. Out of that amount, he has given Rs. 50,000/- to Vikramjeet and Jasbir Singh @ Goldy respectively.

3. Learned counsel for the applicant submitted that allegations against the applicant are false and frivolous and he has nothing to do with the commission of alleged offence. There is not even an iota of evidence to connect him with the commission of the alleged crime. The learned counsel further submitted that he has been in continuous custody for more than 2 years and is stated to be critically ill as he is suffering from non-alcoholic fatty liver disease with increased Alkaline Transferase, Hiatus Hernia and generalized tonic clonic seizures and not in a very stable condition. He further submitted that trial is likely to take a long time inasmuch as the prosecution till date has examined only 7 out of total 39 witnesses. He, therefore, contends that the applicant is entitled to be released on bail. In support of his contention, the learned counsel has

placed reliance upon judgments in Nafe Singh v. State 1993 (1) CCC 254 (Delhi High Court), Lakhbir Singh v. The State (NCT of Delhi) 2002 (1) JCC 130 (Delhi High Court) and Viney Kumar v. State of Punjab dated 19.10.1995, Crl.Mis.No. 10974/1995 (Punjab & Haryana High Court).

4. Learned counsel for the State submitted that the applicant is not entitled to be released on bail, as there are specific allegations against him.

5. I have heard learned counsel for the parties at length and have perused the record. 14 witnesses out of 39 have already been examined. The offence in this case is very grave and serious. There is sufficient evidence on record to connect this accused with the said offence. The statements of Smt. Satnam Kaur, PW-10, Sh. Manmohan Singh, PW-11, Smt. Jagjit Kaur PW-13 recorded by the trial Court. The recovery of the scooter used in crime, recovered at the instance of Vikramjeet Sethi and other circumstantial evidences like Jagdeep @ Vicky embarked from IGI Airport Delhi on 6.5.2004 vide flight EK-511 to Dubai along with Jasbir Singh Sodhi and disembarked at Dubai on the same day and other circumstantial evidence are very much relevant to show the involvement of this accused, as the main conspirator cannot be ruled out. The case

against petitioner/ applicant primarily hinges upon circumstantial evidence.

6. It is a matter of common experience that direct evidence to prove conspiracy is rarely available. Privacy and secrecy are more characteristic of a conspiracy than of a loud discussion in an elevated place open to public view. It is not always possible to give affirmative evidence about the date of the formation of criminal conspiracy, about the object, and about the manner in which the object of conspiracy is to be carried out. All this is necessarily a matter of inference. Therefore, the circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused. As per law laid down by the Apex Court matters to be considered in an application for bail are :-

(i) Whether there is any prima facie or reasonable ground to believe that the applicant had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the applicant absconding or fleeing if released on bail (v) character, behaviors, means, position and standing of the applicant; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with (viii) danger of course of justice being thwarted by the grant of bail. The application of bail has to be considered on general principles and the jurisdiction for

grant of bail has to be exercised on the basis of well-settled principles having regard to the circumstances of the particular case. There appears to be prima facie case against the applicant showing that he was associated with other two accused persons and has indulged in helping and supporting them. Jasbir Singh @ Goldy one of the accused in the crime is his cousin (Buwa ka ladka).

7. Merely because the applicant is in custody for the last 2 years would not by itself be a ground to grant him regular bail. But the applicant is pressing this bail application primarily on medical ground as he is suffering from Hiatus Hernia with convulsive disorder with hypertension and some other ailments as is confirmed from medical status report from Sr. Medical Officer, Central Jail No. 8-9, Tihar Jail, New Delhi dated 12.8.2008.

8. Keeping in view the vicious antecedents of the applicant as around 14 criminal cases are pending against him, to admit the applicant on regular bail will not be in the interest of justice. However, taking into the consideration the serious medical condition which is deteriorating in the Jail hospital, it is a fit case where petitioner/applicant should be granted interim bail for a period of two months to enable him to take proper medical treatment. The applicant is, therefore, directed to be

released on interim bail for a period of two months from the date of his release, subject to his furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the trial court.

9. The application stands disposed of.

10. Nothing observed hereinabove will tantamount to expression of any opinion on the merits of the case.

11. Dasti.

S. L. BHAYANA
(Judge)

September 12, 2008