

... Vs. State of Haryana

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Court : Punjab and Haryana

Decided On : May-22-2013

Appellant : ...

Respondent : State of Haryana

Judgement :

Crl.M.not M- 39995 of 2012 -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH 1 Crl.M.not M- 39995 of 2012 (O&M) Date of decision :

22. 5.2013 ..SunilPetitioner versus State of HaryanaRespondents 2) Crl.M.not M- 39997 of 2012 (O&M) ..Surinder KumarPetitioner versus State of HaryanaRespondents 3) Crl.M.not M- 40007 of 2012 (O&M) ..Suresh KumarPetitioner versus State of HaryanaRespondents 4) Crl.M.not M- 40013 of 2012 (O&M) ..SatishPetitioner versus State of HaryanaRespondents 5) Crl.M.not M- 40015 of 2012 (O&M) ..Munish Kumar Crl.M.not M- 39995 of 2012 -2-Petitioner versus State of HaryanaRespondents 6) Crl.M.not M- 41200 of 2012 (O&M) ..Dalvinder KumarPetitioner versus State of HaryanaRespondents 7) Crl.M.not M- 3506 of 2013 (O&M) ..Kanwarjeet SinghPetitioner versus State of HaryanaRespondents 8) Crl.M.not M- 9740 of 2013 (O&M) ..Ravinder Kumar and othersPetitioners versus State of HaryanaRespondents
Coram: Hon'ble Mr.Justice K.C.Puri Present: Sh.

R.S.Hooda, Advocate and Sh.

Ravinder Malik, Advocate for the petitioners (in Crl.M.Nos.M-39995, M-39997, M-40007, M-40013, M-40015 and M-41200 of 2012) Ms.Aarti, Advocate and Sh.

Ajay, Advocate for Sh.

R.S.Bains, Advocate for the petitioner (in Crl.M.not M-3506 of 2013) Crl.M.not M-39995 of 2012 -3- Sh.

Sumeet Sangwan, Advocate for the petitioners (in Crl.M.not M-9740 of 2013).Sh.

K.T.S.Tulsi, Senior Advocate, Special PP with Sh.

P.M.Anand, Additional Advocate General, Haryana and Sh.

Kuber Boddh, Advocate.

Sh.

Vikas Pahwa, Senior Advocate with Sh.

HaRs.Aggarwal, Advocate and Sh.B.Badrinath, Advocate for the complainant..K.C.Puri, J.

Vide this order, I intend to dispose of Crl.M.Nos.M-39995 of 2012, M-39997 of 2012, M-40007 of 2012, M- 40013 of 2012, M- 40015 of 2012, M-41200 of 2012, M-3506 of 2013 and M-9740 of 2013, as all these 8 petitions have been filed for grant of regular bail in FIR No.184 dated 18.7.2012 under Sections 147, 148, 149, 452, 302, 307, 436, 323, 332, 353, 427, 114, 201, 120-B, 34, 325, 381, 382 IPC, registered at Police Station Manesar, Gurgaon.

The law was set in motion by recording the statement of Deepak Anand s/o Om Parkash, working as General Manager in Maruti Suzuki India Limited, Manesar.

He has stated that he was working a General Manager in the company in morning shift 'A' which starts at 6.30 A.M.To 3.00 P.M.Whereas two other shifts 'B' and 'C' were also observed in the factory.

On 18.7.2012 in the fiRs.shift at about 8.30 A.M.Ram Kishore was working as supervisor in the company.

He was manhandled by one worker of Maruti Suzuki Worker Union namely, Jia Lal s/o Ram Lal.

The supervisor complained of against the misdeeds of Jia Lal to the officers of the Crl.M.not M- 39995 of 2012 -4- company.

Therefore, management suspended Jia Lal from the company.

Said Jia Lal instigated office bearers of the Union that he was wrongly suspended.

The Union had a meeting and all the workers of 'A' shift were circulated a message by the workers of the Union that after completion of 'A' shift, they would not leave the company gate, rather would indulge in fight with the company management.

The workers were raising slogans.

The complainant named 55 such workers of the Union in the FiRs.Information Report who alongwith some other workers then gathered in the office hall and had a talk with the company management.

At the time of talks with the company management, C.S.Raju - CGM, HR, Vikram - Treasurer, Vikram Verma - CTGM Production, Vikram Sarin - GM Production, P.K.Rai - CGM Production, Virender Parshad - CGM HR, Anil Gaur - GMO HR, Salil Bihari Lal - AGM HR including Avnish Dev - GH HR (since deceased).were present on behalf of the company.

The Labour Officer Dinesh and Chander Pal Labour Inspector were also present at the time of talks.

All the workers were in anger.

They raised slogans against the company and left the meeting hall.

At about 7.00 P.M.the office bearers of the worker union and about 500-600 other workers under a pre-plan, while armed with Belcha, rods, lathies, iron rods, dandas etc.entered into the office and started assaulting all the members of the management who met them with an intention to kill them.

They put the time office, office and company premises on fire.

They started damaging the building of the office.

Due to fire, several persons of the office were got entangled but they were rescued with CrI.M.not M- 39995 of 2012 -5- the help of police who happened to come in the company.

The mob also damaged the police vehicles, fire brigade, as well as, man handled the police officials.

The office was checked and dead body of Avnish Dev General Manager HR was found.

The body sustained severe injuries and was charred to death.

During the investigation statements of PW-9, PW-10, PW-11 and PW-12 were recorded and they have named the applicants also as assailants.

More than 100 persons are stated to have received injuries, out of which 21 were stated to be head injuries on the various persons as per Sh.

K.T.S.Tulsi, Special PP.

These injured also received injuries on face and other parts of the body.

Learned Special Public Prosecutor Sh.

K.T.S.Tulsi, has submitted that the names of the witnesses have not been disclosed due to the reason that they apprehend danger to their lives.

It is submitted that property of more than Rs.500 crores belonging to the company has been destroyed by the present applicants and otheRs.The offence complained

of is heinous in nature.

In case the present petitioners are allowed the concession of bail, in that case the witnesses will not depose.

They have already approached the trial Court for their protection, which has been granted.

The present applicants were armed with deadly weapons and have caused injuries to 100 persons of management, police personnel and have even not spared the vehicles belonging to the police and fire brigade.

Sh.

K.T.S.Tulsi, Special PP has submitted that in authority reported as Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC CrL.M.not M-39995 of 2012 -6- 496, it has been held that following considerations should be taken into account while granting the concession of bail:- (i)Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii)nature and gravity of the accusation; (iii)severity of the punishment in the event of conviction; (iv)danger of the accused absconding or fleeing, if released on bail; (v)character, behaviour, means, position and standing of the accused; (vi)likelihood of the offence being repeated; (vii)reasonable apprehension of the witnesses being influenced; and (viii)danger, of course, of justice being thwarted by grant of bail.

It is submitted that prima facie case is made out against the accused as they have taken an active part in the occurrence, while armed with weapons.

The gravity of offence is severe.

There is a danger of the accused absconding away in case they are allowed the concession of bail.

The witnesses are likely to be threatened and could not appear to support the case of prosecution.

There is danger, of course, of justice being thwarted by the grant of bail.

Sh.

K.T.S.Tulsi, Special PP has also relied upon the following authorities:- 1) Suresh Kumar Somabhai Rana versus Ashok Kumar Crl.M.not M- 39995 of 2012 -7- Haraklal Mittal (2009) 14 Supreme Court Cases 292.

2) Satish Jaggi versus State of Chhattisgarh (2007) 11 SCC 19.3) Anil Kumar Tulsiyani versus State of U.P.(2006) 9 SCC 42.4) State of U.P.Through CBI versus Amarmani Tripathi (2005) 8 SCC 2.5) Chaman Lal versus State of U.P.(2004) 7 SCC 52.6) Kalyan Chandra Sarkar versus Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 52.7) State of Maharashtra versus Ramesh Taurani (1998) 1 SCC 4.In reply to the above noted submission, counsel for the petitioners have submitted that grant of bail is the rule of law and jail is the exception.

Unless and until a person has not been convicted by the Court, the personal liberty of the person should not be curtailed.

It is submitted that name of 55 persons is mentioned in the FIR regarding the occurrence.

The name of none of the petitioners is mentioned in the FIR.

These persons have been indicted on the basis of testimony of PW-9 to PW-12.

Their statements are stereotype and they have named the assailants alphabetically.

One witness has given the name of some person, whereas the other witness has given the name of another accused according to alphabets.

No witness has repeated the name of any of the petitioner.

It is contended that 150 muscle men have been engaged by the company.

It is contended that prior to the occurrence, there was request of workers of Union to Crl.M.not M- 39995 of 2012 -8- make revision in their wages.

The occurrence has been created by the management only to put pressure on the workers to postpone their demands.

No specific role has been attributed to any of the applicant.

Names of the witnesses have not been supplied.

It is contended that State is dancing at the tune of company on account of the revenue given by the company.

The learned trial Court has wrongly mentioned the workers as 'Ultras'.

The petitioners and other workers have been pitted against the giant company and have no inter se comparison.

Learned counsel for the petitioners have further submitted that petitioners are in custody since July 2012 i.e. for the last about 10 months.

So, prayer has been made for grant of bail to the petitioners. I have given my thoughtful consideration to the rival submissions made by counsel for both the sides and have also gone through the file of the case.

The grant of bail depends upon the conditions No.(i) to (viii) as detailed above in Prasanta Kumar Sarkar's case (Supra). As per allegation, one person of the management has been done to death and injuries were stated to be on his person.

He was not allowed to go out of the room.

The petitioners alongwith other persons were armed with deadly weapons and have inflicted injuries upon more than 100 persons of management.

Even police personnel were not spared.

It is stated that property of more than Rs.500 crores of the company has been damaged in the occurrence.

The prosecution is even afraid of giving the names of witnesses as they know that in view of number of accused, pressure may be built upon them not to CrI.M. not

M- 39995 of 2012 -9- depose against the accused.

Prima facie case is made out against the accused in respect of causing injuries to 100 persons and causing death of Avnish Dev.

Each of the applicant has been specifically named and all these applicants were stated to be armed with weapons and have taken an active part in the occurrence.

The grant of bail at this stage will not be conducive for the fair trial as the witnesses may not be able to depose out of fear.

It is stated at the Bar that witnesses have been granted protection by the Court.

The incident is most unfortunate occurrence which has lowered the reputation of India in the estimation of the world.

Foreign investors are not likely to invest the money in India out of fear of labour unrest.

In case Jia Lal has been wrongly suspended, there could be so many ways to settle the dispute.

In case the workers of a factory resort to such type of violence, in that case no factory could work properly.

The Hon'ble Apex Court in Suresh Kumar Somabhai Rana's case (Supra).cancelled the order of High Court granting bail, where the High Court has not granted the bail judiciously.

It has been observed in the said ruling that while taking into consideration the provisions of Section 149 IPC, where there is substantial allegation of serious offence against the accused of causing death by causing injury with weapon, in that case prima facie it does not appear proper to enlarge such accused on bail.

The observations made by the Hon'ble Apex Court in Shahzad Hasan Khan versus Ishtiaq Hasan Khan (1987) 2 SCC 684.were quoted in the said ruling which is reproduced as under:- Crl.M.not M- 39995 of 2012 -10- Liberty is to be secured

through process of law, which is administered keeping in mind the interests of the accused, the near and dear of the victim who lost his life and who feel helpless and believe that there is no justice in the world as also the collective interest of the community so that parties do not lose faith in the institution and indulge in private retribution.

The Hon'ble Apex Court in Satish Jaggi's case (Supra) held that at the stage of bail, court can only go into the case as prima facie case established.

It cannot go into question of credibility and reliability of witnesses put up by prosecution.

Thus findings regarding credibility and reliability of witnesses given by the High Court were set aside by the Hon'ble Apex Court.

In the authorities in Anil Kumar Tulsiyani's case (Supra).Amarmani Tripathi's case (Supra).Chaman Lal's case (Supra).Kalyan Chandra Sarkar's case (Supra) and Ramesh Taurani's case (Supra).it has been held that gravity of the offence and other attending circumstances are the relevant factor for the grant of bail.

So, considering all the circumstances, no case is made out for grant of bail at this stage.

Consequently, all the bail applications stand dismissed.

(K.C.Puri) 22.5.2013 Judge chugh

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