

Sidharth Grover Vs. State

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Court : Delhi

Decided On : Dec-16-2013

Judge : Hima Kohli

Appellant : Sidharth Grover

Respondent : State

Advocate for Def. : Mr. Rajat Katyal

Advocate for Pet/Ap. : Mr. Ram Jethmalani, Mr. Manu Sharma, Mr. P.R. Mala, Mr. Karan Kalia, Mr. Parnav Diesh, Mr. Ali Jethmalani, Mr. Abhir Datt

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + BAIL APPLN. No.1918/2013
Reserved on:

06. 12.2013 Date of decision:

16. 12.2013 IN THE MATTER OF: SIDHARTH GROVER Petitioner Through : Mr. Ram Jethmalani, Sr. Advocate with Mr. Manu Sharma, Mr. P.R. Mala, Mr. Karan Kalia, Mr. Parnav Diesh, Mr. Ali Jethmalani and Mr. Abhir Datt, Advocates. versus STATE Respondent Through : Mr. Rajat Katyal, APP for the State with Insp. Rajeev Kumar, PS Safdarjung Enclave. CORAM HON'BLE MS.JUSTICE HIMA KOHLI HIMA KOHLI, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. praying inter alia for grant of bail in case FIR No.427/2013 registered under Sections 323/304-II IPC & Sections 155, 3/181 of Motor Vehicles Act at PS Safdarjung Enclave, Delhi.

2. The FIR came to be registered on the complaint of one Shri Dushyant, a driver by profession, who had stated that in the morning of 5.9.2013, he had driven down to Phoolwati Jain Charitable Trust Hospital in Safdarjung Development Area with Smt. Sushila Tewatia and her daughter, Ms. Annu Kundu and parked his car outside the hospital compound. When the aforesaid ladies came out of the hospital and stopped to purchase some fruits from a nearby fruit cart at about 11.45 AM, the petitioner, who was driving a Swift Dezire car in a rash and negligent manner and at a very high speed, came from the wrong side of the road and hit a stationary car, two cyclists and a motorcycle standing near the entrance of the hospital and then colluded with the fruit cart. The motorcycle rider and the pillion rider fell down as a result of the impact of the car. Thereafter, the car had forcefully hit the fruit cart where the complainant was standing along with the aforesaid two ladies and hit all three of them. While Ms. Annu Kundu got entangled with the car and was dragged for quite a distance, the complainant and Smt. Sushila Tewatia were thrown at a distance. Finally, when the car came to a halt, the public in the vicinity apprehended the petitioner, called the police and handed him over. The injured persons were taken to AIIMS Trauma Centre for treatment, the car was seized by the police and the FIR was registered on the same day. The petitioner was arrested two days later, on 7.9.2013.

3. Mr. Ram Jethmalani, Senior Advocate appearing for the petitioner stated that initially, the FIR had been registered by the police under Sections 279/337 IPC, but later on, provisions of Section 304 Part-II IPC were added. He submitted that it was while trying to avoid hitting a stray dog that had suddenly come in front of his car, that the petitioner had lost control of the car, and resultantly, the front tyre had burst and caused the accident. The court was informed that the petitioner did not try to flee from the scene of the accident and had alighted from the car to try and help the injured, but he was prevented from doing so by the public that had gathered on the spot. Learned counsel stated that as the investigation of the case

has been concluded and the charge-sheet filed, there is no compelling reason to continue the detention of the petitioner in judicial custody.

4. Referring to the decisions of the Supreme Court in the cases of Bhagirathsinh vs. State of Gujarat, (1984) 1 SCC84 & Sanjay Chandra vs. CBI, (2012) 1 SCC40 it was canvassed on behalf of the petitioner that the object of bail is to secure the presence of the accused person during the trial and it was urged that the petitioner herein shall not abuse the discretion that may be granted in his favour by trying to tamper with the evidence or influence any witness. Giving the background of the petitioner, it was stated that he is 39 years of age, is a well educated person working as an Executive in a company in Delhi, has clean antecedents and belongs to a respectable family. senior bureaucrat, who The petitioners father is stated to be a had retired as a Secretary in the Government of India. It was stated that during the period when the accident had taken place, the petitioner was quite distraught on account of the fact that close to his nuptial day, his marriage alliance had suddenly broken which was only a couple of days prior to the date of the accident and at that time, he was still trying to cope with the personal tragedy. It was urged that the petitioner may be enlarged on bail on his undertaking that he would abide by all the conditions that the court may be inclined to impose upon him and would be ready to face trial in the case.

5. A status report was called for from the State. In the first status report, it was submitted that out of five persons injured in the accident, one lady, namely, Smt. Sushila Tewatia had succumbed to the injuries and her daughter, Ms. Annu Kundu who had been operated upon for multiple fractures in her pelvic region, was admitted in the ICU and her statement could not be recorded as her condition was critical. The status report had also mentioned that the petitioner was found positive for alcohol at the time of the accident and his bail application was opposed on the ground that he had injured five persons out of whom one had expired, and another was critical. In view of the submission made by the learned APP that some time be granted to record the statement of the injured lady, the case was adjourned to 6.11.2013.

6. On 6.11.2013, the Court was informed by the learned APP that ever since the accident had occurred, Ms. Annu Kundu had remained in the ICU in a critical condition and she had finally succumbed to her injuries on 24.9.2013. On the said date, when the learned APP was called upon to apprise the court about the FSL report in respect of the petitioners blood samples, he had stated that the report was still awaited. As a result, the case was adjourned to 15.11.2013 with a direction issued to the State to file an additional status report indicating inter alia the result of the blood analysis report of the petitioner and the mechanical report of the offending vehicle in question.

7. The third status report filed by the State mentioned that as per the report received from FSL, Rohini, the alcohol content in the petitioners blood sample was found to be 34.6 mg/100 ml. against the permissible limit of 30.mg/100 ml. Further, it was stated that the offending vehicle had been examined with the help of the CFSL, CBI and as per its report, the tyre of the offending vehicle had burst due to a heavy impact during the accident and the vehicle was being driven at a high speed on the wrong side. A copy of the report was handed over and taken on record.

8. Based on the aforesaid reports forwarded by the FSL, Rohini, and the CFSL, CBI, learned APP opposed the present application and stated that the petitioner had been found positive for alcohol at the time of the accident that had taken place in broad daylight and he was clearly driving the car in a reckless manner on the wrong side of the road, which had resulted in the accident that had injured five persons, out of whom two ladies, who were critically injured, had succumbed to the injuries. Learned APP had argued that merely because a charge-sheet has been filed in the present case ought not to be a consideration for granting bail to the petitioner as he belongs to an influential family and it is ordinarily seen in such like cases that if an accused is released on bail, there is a great likelihood of his influencing the witnesses. He therefore urged that the petitioner should remain in judicial custody at least till the public witnesses are examined.

9. The Court has heard the counsels for the parties and considered their respective submissions. It is well settled that at the time of considering a bail

application, the court is not expected to meticulously examine the evidence or undertake an elaborate scrutiny of the documents as that may prejudice the case of either side, more so since parties have yet to address arguments on charge before the trial court. However, a prima facie view with regard to commission of offence by the accused can be taken. The Court must also keep in mind the nature and the gravity of the charge, severity of the punishment in the event of conviction, position and standing of the accused, reasonable apprehension of the witnesses being tampered with, danger of justice being thwarted by grant of bail, and the danger of the accused fleeing from justice [Refer: State of UP vs. Amarmani Tripathi (2005) 8 SCC21 10. Coming to the sequence of events leading to the accident, the Mechanical Report dated 13.11.2013 prepared by the CFSL, CBI in respect of the offending vehicle contains a rough sketch of the scene of the accident which reveals that the petitioner was driving the offending vehicle at a high speed on the wrong side of the road, i.e., on the right hand side of the road, against the flow of the traffic. The vehicle had first grazed a Tata Safari parked near the hospital, then crashed into a stationary Santro car causing it heavy damage. Thereafter, the vehicle collided into a fruit cart where the two ladies were standing and purchasing some fruits and the said cart was also severely damaged. The offending vehicle had then dragged one of the victims, Ms. Annu Kundu to about 50 feet and after covering a further distance of 125 feet, it had come to a grinding halt in the middle of the road while taking a left turn. The right front side tyre of the vehicle was found in a burst condition.

11. The Mechanical Report noted that the brake of the offending vehicle was found to be in normal working order and the nature of damage caused to the vehicle suggested that the tyre burst had occurred due to the heavy impact during the accident, when it was moving at a high speed on the wrong side of the road. The Report had concluded that the nature of the cut ends at the burst portion of the tyre indicated that the direction of the cut was from outside to inside of the tyre and there were absence of skid marks on the road which suggested that no brake had been applied.

12. In view of the aforesaid Mechanical Report, the averments made in the petition that the accident had been caused on account of sudden application of brakes by

the petitioner so as to avoid hitting a stray dog that had dashed in front of his vehicle, due to which the car tyre had burst, appear to be rather improbable. In fact, anyone, whether inebriated or otherwise, who is found driving a vehicle in a reckless manner on the wrong side of the road, is surely inviting serious trouble. The FSL report with regard to the alcohol content in the petitioners blood stream shows that as against permissible limit of 30.mg/100 ml., the alcohol content was found to be 34.6 mg/100 ml. No doubt, the alcohol content is beyond the permissible level but it cannot be stated to be so excessive that the petitioner would have been impervious to the adverse consequences of driving in a drunken state. Even otherwise, the petitioner is an educated person, well aware of the fact that if a person drives in an inebriated condition, it would impair his faculties and could result in dangerous consequences.

13. The evidence gathered so far reveals that on the fateful day, the petitioner was under the influence of liquor during the daytime and was found to be driving a vehicle in a rash and negligent manner on the wrong side of the road, which can only be described as a sure fire recipe for courting disaster, the consequences whereof were suffered by innocent bystanders, who were caught completely unawares to the point that one of them got badly entangled in the vehicle and was dragged to about 50 feet and the offending vehicle did not halt till it had covered a distance of another 125 feet.

14. That the petitioner was going through an emotional upheaval in his personal life just before the date of the accident cannot be such an overwhelming factor that this Court would be inclined to overlook the gravity of the offence, where two precious lives have been lost and others have suffered injuries.

15. Having regard to the facts and circumstances of the present case, the gravity of the offence, the character of the evidence placed on record, the reasonable apprehension of the witnesses being influenced, the larger public interest and further, in view of the fact that the charge-sheet has been filed but arguments on charge have yet to be addressed and none of the public witnesses have been examined, at this stage, the Court is not inclined to entertain the present petition, which is accordingly dismissed.

16. Needless to state that the observations made hereinabove are prima facie in nature and limited to the scope of grant of bail to the petitioner and the trial court shall proceed to hear arguments on charge and pass appropriate orders in accordance with law, uninfluenced by the said observations. DECEMBER16 2013
sk/mk/rkb BAIL APPLN .No.1918/2013 (HIMA KOHLI)

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