

**Vishal Yadav Vs. State of Delhi and anr.**

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**Court :** Delhi

**Decided On :** May-16-2014

**Judge :** Gita Mittal

**Appellant :** Vishal Yadav

**Respondent :** State of Delhi and anr.

**Judgement :**

§~ \* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P. (Crl.) No,905/2014 & Crl.M.A. No.7112/2014 DATE OF DECISION:

16. 05.2014 VISHAL YADAV Through ..... Petitioner Mr.Sanjay Jain, Adv. with Mr.Vinay Arora, Adv. versus STATE OF DELHI & ANR. Through ..... Respondent Mr.Rajesh Mahajan, Adv. with Mr.Yashwardhan Tiwari, Adv. for States. Mr.P.K. Dey, Adv. with Mr.K.K. Dey, Adv. for complainant. CORAM: HON'BLE MS. JUSTICE GITA MITTAL HON'BLE MR. JUSTICE J.R. MIDHA GITA MITTAL, J (Oral) Crl.M.A. No.7112/2014 1. Allowed, subject to just exceptions. W.P. (Crl.) No.905/2014 2. A status report dated 15th May, 2014 has been filed by the State which is taken on record.

3. By way of the instant writ petition, the petitioner stands convicted for commission of offences under Section 302 read with Section 34; Sections 364 & 201 of the Indian Penal Code by the Additional Sessions Judge, Patiala House, New Delhi in SC No.78/02 arising out of FIR No.192/02, PS Ghaziabad, UP. The

petitioner was thereafter sentenced, inter alia, for life. The petitioners challenge to the conviction stands rejected by a judgment dated 2nd April, 2014. The challenge to the sentences as well as CrI. Revision No.369 of 2008 and Criminal Appeal No.958 of 2008 for enhancement of the sentence as well as consideration of the sentences imposed on the petitioner is pending consideration.

4. By way of the instant writ petition, the petitioner seeks grant of parole for a period of three months on the ground that the marriage of his younger brother namely Shri Vivek Yadav, has been fixed for the 24th May, 2014 and he wishes to attend the marriage as well as other ceremonies relating thereto. Several other grounds have been raised in the writ petition which are, however, not pressed for the purposes of grant of parole.

5. The writ petitioner has pleaded that he was on bail during the trial for a period of two and a half years. The petitioner was also granted suspension of sentence from 14th January, 2010 till 31st January, 2010 during the pendency of his appeal in order to enable him to participate in the ceremonies relating to marriage of his sister. The petitioner has submitted that he has never misused the liberty granted to him.

6. In the status report which has been filed by the State, it has been verified that the marriage ceremony of Vivek Yadav, brother of the petitioner is scheduled on 24th May, 2014. The police has verified the booking of the venue in this regard as well from the Shangri-la - Eros Hotel.

7. Mr.Rajesh Mahajan, learned Additional Standing Counsel for the State points out that so far as sagan ceremony on 20th May, 2014 is concerned, the same has been verified from the receipt of the payment effected by the petitioners family towards charges for the same to the Country Inn & Suites. The State has also verified that the reception is being hosted by the petitioners family to celebrate the marriage on 28th May, 2014 at the K.V. Farms. The certificate confirming the booking has been placed from the K.V. Farms with the status report.

8. It is on record that the petitioner is the only male member in his family.

9. An apprehension is expressed by Mr.Dey, learned counsel who represents Ms.Neelam Katara, the complainant in the case, that she apprehends threat to her security. We are informed that the complainant has been granted security by the State.

10. We have also perused the order dated 14th January, 2010 which was passed on CrI. M.B. No.1571 of 2009 in CrI.Appeal No.741/2008 wherein while granting interim suspension of sentence, restrictions were imposed on the movement of the present petitioner in order that to ensure that he does not interfere with any of the witnesses in the case. So far as the apprehensions which have been expressed on behalf of the complainant are concerned, the same can be allayed by imposition of appropriate conditions and restrictions upon the petitioner.

11. We may note that amongst the several matters which are pending before us, an application of the complainant with regard to unwarranted hospital visits and hospital stays on the part of the present petitioner and his co-convict is pending. One of the issues under consideration is whether the period which has been identified as unwarranted stays in hospitals, is not to be treated as part of the sentence. This question is yet to be adjudicated. We may also point out that the nominal roll placed by the jail before us, does not make any reference to such period. It is, therefore, made clear that the consideration of the present writ petition as well as the present order is not an expression of opinion on the merits of the issues which are pending consideration in other pending matters.

12. We are also not commenting on the submissions of the complainant and the State with regard to the conduct of the petitioner during trial and thereafter including his conduct in the jail. The present order shall not be treated as condonation of the same.

13. On a consideration of the totality of all the above circumstances, we are of the considered view that it would be in the interest of justice to permit the petitioner to attend the wedding and the related ceremonies of his brother Vivek Yadav.

14. In view of the above, it is directed as follows:- (i) Subject to the writ petitioner furnishing a personal bond in the sum of Rs.1,00,000/- with two sureties of the like

amount to the satisfaction of the Registrar General of this court, the applicant shall be released on parole for a period from 20th May, 2014 till 29th May, 2014 (both days inclusive). (ii) On expiry of the period of parole, the writ petitioner shall surrender before the Jail Superintendent, Tihar Jail, New Delhi. (iii) During the period of parole, the petitioner shall remain within the boundaries of Delhi as well as of District Ghaziabad and shall report to the local police on every alternate day starting from 21st May, 2014. (iv) The petitioner shall not meet or interact with any of the witnesses including the complainant in the case during the period of his parole. This writ petition is allowed in the above terms. Dasti. GITA MITTAL, J J.R. MIDHA, J MAY16 2014 aa

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