

Hardayal Singh Vs. State

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Court : Delhi

Decided On : May-28-2014

Judge : Veena Birbal

Appellant : Hardayal Singh

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision: May 28th, 2014 + BAIL APPLN. 418/2014 HARDAYAL SINGH Petitioner Through: Ms. Rebecca M. John, Sr. Advocate with Mr. Harsh Bora, Mr. Vishal Gosain, Ms. Tarannum Cheema, Mr. Kushdeep Gaur & Mr. Aditya Sharma, Advocate. versus STATE Respondent Through: Mr. Siddharth Aggarwal, SPP with Mr. Adit S. Pujari, Adv. & Ms. Jasbir Kaur, APP. CORAM: HON'BLE MS. JUSTICE VEENA BIRBAL VEENA BIRBAL, J.

1. This is a petition under section 439 of Code of Criminal Procedure for the grant of bail to the petitioners in case FIR No.497/12 under Section 307/452/365/342/368/395/397/34/120B IPC registered at P.S. Mehrauli pending before the Id.ASJ, Saket Court, New Delhi in a case titled State vs. Bhupinder Singh Bisht & Ors.

2. The aforesaid FIR was registered on 17.11.2012 at P.S. Mehrauli on the complaint of Nandlal s/o Sh. Ram Kirpal. The complainant has alleged in the FIR

that he had been working with Hardeep Singh Chadha for the past 22 years as a driver. On 17.11.2012 at about 11.00 a.m. when he was present at Farm House No.42, Central Drive, DLF Chattarpur, Mehrauli, at that time he saw staff cook Sonu had come running from the main gate No.3 and told that at gate No.1, 30/40 men were breaking the gate and trying to enter inside. By the time he came out of his room, 4-5 cars wherein many people were there entered the farm through the gate out of which he recognized only 5 people. He has alleged that they were PSO's to Ponty Chadha who is the brother of Hardeep Singh Chadha and in the FIR he had given the name of 3 persons as Bisht, Anna and Premvir. He has alleged that the aforesaid 3 PSO's had been working with Ponty Chadha for the past many years. He had further alleged that Bisht along with Anna had caught hold of him and Bisht handed over him to Premvir and fired twice in the air and stated to the persons there to vacate the farm house. The other persons who had come in the car carrying the aforesaid PSO's were having hockey sticks, swords, rods and used the said weapons to beat up the persons present at the farm house and got the farm house vacated from them and locked it from the outside. Thereafter, he was put in an Innova Car stated to be parked in the farm house and taken to another farm house. While taking him to another farm house and with the intention of killing persons in the farm house they had fired bullets. But he did not know if any of the bullets hit anyone. They had taken him to farm house DLF, Chhatarpur. After some time, one person came from outside and told the above 3 PSO's to come out of the room and thereupon those three people left the room. One person came and told those 3 persons to come out. Thereupon, those 3 persons had left him and on getting opportunity he also ran away. He had alleged that the persons who had come to the farm house had snatched mobile phones of the employees. He has also alleged that he can recognize other persons also if shown to him. On the basis of his statement, FIR under Section 307/452/365/342/368/395/397/34/120B IPC at P.S. Mehrauli was registered.

3. The background of coming to the aforesaid farm house as per prosecution case is that there was a property dispute between two brothers, namely, Hardeep Singh Chadha and Gurdeep Singh Chadha @ Ponty Chadha subsequent to death of their father Sh. Kulwant Singh Chadha on issues pertaining to their shares in ancestral Farm House no.42, DLF Farms, Chattarpur, Mehrauli and Farm House

no.G-19, Pushpanjali Farms, Bijwasan, Delhi. As per prosecution case, the aforesaid farms were in the possession of Hardeep Singh Chadha and Gurdeep Singh Chadha @ Ponty Chadha wanted to obtain physical possession of the same. It is alleged that certain attempts were made towards settlement by the father-in-law of Hardeep Singh Chadha, namely, Sh. Hardeep Sarna and last such effort was made on 16.11.2012 but the dispute was not resolved.

4. It is alleged that as the settlement talks had failed between two brothers, Gurdeep Singh Chadha @ Ponty Chadha in order to have possession sought the help of Sukhdev Singh Namdhari who is co-accused in the present case and asked him to come to Delhi with his men in order to take possession of the aforesaid farm houses.

5. Further, case of the prosecution is that on 16.11.2012, Sukhdev Singh Namdhari started in his vehicle driven by petitioner no.2 Bakshish Singh along with armed henchmen including petitioner no.1, Kulbir Singh, Pargat Singh and reached Wave City, Ghaziabad after mid night where they stayed at a Guest house of Ponty Chadha. It is further alleged that on the next morning i.e., on 17.11.2012, there was a meeting at the house No.21, Oak Drive, DLF Chhatarpur, New Delhi which was in possession of Ponty Chadha where a conspiracy was hatched to take forcible possession of aforesaid farm houses from the possession of Hardeep Singh Chadha. It is further alleged that pursuant thereto on 17.11.2012 at 11 am, a group of persons consisting of Narender Ahlawat, Bhupinder Singh Bisht, Udai Raj Singh and other men gathered by them, along with the men of Sukhdev Singh Namdhari including the present petitioners reached the Farm House no.42, Chattarpur and trespassed into the said property. It is alleged that these men were armed with deadly weapons i.e., firearms including AK-47 rifle, revolvers, swords, lathis etc. It is further alleged that they came with new locks and other implements in order to replace the locks fixed at the gates of the farm house with their own locks. It is further alleged that gun shots were fired by some men in order to subdue and intimidate the occupants of the farm house. It is further alleged that the complainant Nand Lal was abducted and taken to another farm house where he was confined. Further allegations are that belongings of the employees were loaded in a tempo Tata 407 bearing no.DL1R6167 6. Further

allegations are that the information had reached Hardeep Singh Chadha who had driven to Farm House no.42 and had also called several persons. It is alleged that in the meanwhile after taking over the possession of farm house in question, the conspirators namely Ponty Chadha and Sukhdev Singh Namdhari also arrived at the farm house which was allegedly locked from outside by the men of Ponty Chadha. Further allegations are that when Hardeep Singh Chadha reached gate no.3 of the farm house, he saw Narender Ahlawat opening the gate of farm house and saw Ponty Chadha and Sukhdev Singh Namdhari sitting in a Toyota Land Cruiser. Thereupon, he fired at Narender Ahlawat and then at Ponty Chadha. Thereupon, it is alleged that Sukhdev Singh Namdhari and Sachin Tyagi, PSO of Sukhdev Singh Namdhari fired shots at Hardeep Singh Chadha. The matter was reported to the police and FIR no.496/2012 u/s 302/307 IPC and u/s 25 of the Arms Act was registered on the complaint of Sukhdev Singh Namdhari. Thereafter, FIR of the present case i.e., FIR no.497/12 was registered at P.S. Mehrauli on the complaint of Nand Lal.

7. Learned senior counsel appearing for the petitioner - Hardayal Singh has submitted that in the aforesaid FIR i.e. FIR No.497/2012 the names of accused persons mentioned are Bisht, Anna and Premvir as having come to the farm house along with other unknown persons. It is submitted that the petitioner Hardayal Singh has not been named in the FIR. The charge sheet has already been filed against 22 persons including the present petitioner. Learned senior counsel has submitted that there is no recovery at the instance of present petitioner. It is submitted that Shiv Kant Verma, the security supervisor of Hardeep Singh Chadha in the first statement recorded u/s 161 Cr.P.C did not name the present petitioner having come on farm house no.42, at the time of alleged occurrence. It is submitted that his supplementary statement was recorded on 5.01.2013 wherein also he did not allege that the present petitioner was present at the time of alleged incident. However, in the second supplementary statement which was recorded on 4.3.2013 he has alleged having seen the petitioner along with two other coaccused persons and also alleged that they had forcibly evicted the employees from the farm house no.42 and were actively beating them. The aforesaid witness has stated that he can identify the persons if shown to him. Learned senior counsel for petitioner has submitted that second supplementary

statement is no statement in the eyes of law. It is submitted that the charge against the petitioner is under Section 120B read with Section 307/147/148/149/323/325/342/365/368/395/397/452 IPC and substantive charge against him is under Section 323/325/134 IPC on the allegations of having caused grievous hurt to the occupants of farm house no.42.

8. On the other hand, learned Special Public Prosecutor has submitted that the present petitioner has refused to participate in TIP. It is further submitted that proceedings u/s 82 Cr.P.C had already commenced against him. Thereafter he had surrendered. It is submitted that his name has surfaced on the disclosure statement of co-accused and CCTV footage shows his presence in the lane near the entrance gate of the Farm house no.42 at the time of alleged incident. It is submitted that there are serious allegations against the present petitioner. It is alleged that he was actively involved in the alleged crime and present is not a fit case for grant of bail to the petitioner.

9. I have considered the submissions made on behalf of the learned senior counsel for the petitioner as well as learned SPP for the State.

10. Prima facie, there are serious allegations against the present petitioner. As per allegations, he was an associate of Gurdeep Singh Chadha @ Ponty Chadha and was a active participant of criminal conspiracy. On the basis of investigation conducted, the petitioner along with co-accused persons has used deadly weapons during the execution of conspiracy and was involved in the beating up of the occupants of the farm house, looting their belongings and ransacking the farm house. It has also come in the investigation that the conspiracy was well planned and there is a prima facie evidence against him of having taken part in the conspiracy. There are also prima facie evidence that petitioner has accompanied co-accused persons from Ghaziabad as a part of the conspiracy to obtain forcible illegal possession of the farm house from Farm House No.42, DLF, Chhatarpur at all costs. As per investigation carried out, CCTV footage shows the presence of petitioner in the lane near the entrance gate of the Farm House no.42 at the time of alleged incident. As per status report furnished, petitioner has also a prior criminal record. He has also refused for TIP in the present case. Even if the name

of petitioner has come in the supplementary statement of Shivkant Verma, PW dated 4.3.2014 the same cannot be thrown at this stage. The effect of alleged supplementary statement shall be seen after considering the total evidence on record. The charge has already been framed against the petitioner under Section 120B read with Section 307/147/148/149/323/325/342/365/368/395/397 and 452 IPC. He has been further charged for substantive offence under Section 323/325/34 IPC. The case is at the threshold. The public witnesses are yet to be examined. The offence alleged is serious in nature. The chances of tampering with prosecution evidence cannot be ruled out. In view of the above discussion, the bail application is rejected. VEENA BIRBAL, J th MAY28, 2014 kks

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