

Baaj Singh and anr Vs. State

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Court : Delhi

Decided On : May-28-2014

Judge : Veena Birbal

Appellant : Baaj Singh and anr

Respondent : State

Advocate for Def. : Mr. Siddharth Aggarwal, Mr. Adit S. Pujari, Ms. Jasbir Kaur

Advocate for Pet/Ap. : Ms. Rebecca M. John, Mr. Harsh Bora, Mr. Vishal Gosain, Ms. Tarannum Cheema, Mr. Kushdeep Gaur, Mr. Aditya Sharma

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision: May 28th 2014 + BAIL APPLN. 417/2014 BAAJ SINGH & ANR Petitioners 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 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 running from the main gate No.3 who had come to him 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 came wherein many persons were there, had entered the farm house through the gate, out of which he could recognize only 5 persons . He has alleged that they were PSOs of Ponty Chadha who was the brother of Hardeep Singh Chadha and in the FIR he had given the names of 3 persons as Bisht, Anna and Premvir. He has alleged that the aforesaid 3 PSOs 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 PSOs were having hockey sticks, swords, rods. It is alleged that they had 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 parked in the farm house and was taken to another farm house. While taking him 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 had hit anyone. They had taken him to farm house no.34, Central Drive, DLF, Chhatarpur. After some time, one person came from outside and told the above 3 PSOs to come out of the room. Thereupon, those 3 persons had left him and on getting opportunity he also ran away. He has 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 no.497/12 under Section 307/ 452/ 365/ 342/ 368/ 395/ 397/ 34/120B IPC at P.S. Mehrauli was registered.

3. The background of petitioners and their associates 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 an 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 petitioners has submitted that in the aforesaid FIR i.e. FIR No.497/2012 the names of accused persons mentioned is Bisht, Anna and Premvir and having come to the farm house along with other unknown persons. It is submitted that the petitioner have not been named in the FIR. The charge sheet in the aforesaid case has also been filed against 22 persons including the present petitioners who have been shown as accused No.14 and 17. It is further submitted that on 7.3.2013, the present petitioners had surrendered before the concerned court where they were formally arrested and since then, they are in custody. It is submitted that petitioners are alleged to be employees and working for Sukhdev Singh Namdhari through Ponty Chadha. It is submitted that no identification of the petitioners have been got done from any of the witnesses. There is no substantive evidence against the petitioners and the

only evidence against the petitioners is that co-accused Balkar Singh allegedly got recovered mobile phone of Nokia make having IMEI no.3562235040421903 from the house of petitioner no.1 located in Village Aamkhera, Bareilly, U.P. It is further alleged that said mobile phone was produced by the wife of petitioner no.1 at the instance of co-accused Balkar Singh and not that of petitioner No.1 and even his wife was not made a witness to the case.

8. It is further submitted that it is not the case of the prosecution that the present petitioners have caused injury to anyone. It is further submitted that the present petitioners have been charged under sections 120B read with sections 307/ 147/ 148/ 149/ 323/ 325/ 342/ 365/ 368/ 395/ 397/ 452 IPC. It is further submitted that at the time of second incident for which FIR no.466/12 has been registered, presence of the petitioners have not been shown. Learned senior counsel further submits that there is no legal admissible evidence against the petitioners in support of the prosecutions allegation of participation in any criminal conspiracy. In support of the contention, learned senior counsel has placed reliance upon State (Delhi Admn.) vs. V.C.Shukla: AIR 1980 SC1382 It is further submitted that charge sheets have been filed and there are 183 witnesses in the present case and trial will take a long time. admitted to bail. In these circumstances, petitioners be In support of the contention, learned counsel has placed reliance upon a judgment of this court in Amit Pratap & Anr. Vs. State:

2012.

1) JCC86.

9. Mr. Siddharth Aggarwal, learned SPP has opposed the bail application. It is submitted that there are serious allegations against the petitioners. It is submitted that they were associates of Gurdeep Singh Chadha @ Ponty Chadha, aides of Sukhdev Singh Namdhari and were a part of criminal conspiracy and subsequently committed illegal acts in pursuance thereof. It is submitted that call detail records including results of CFSL and FSL analysis of mobile phones of petitioners makes it clear that mobile phone number 9012646510 and 9568500009 belonged to the petitioners/coaccused persons Baaj Singh and Bakshish Singh respectively. It is submitted that call detail records show that on 16th and 17th November, 2012 they

were used and their connectivity points out at the place where the alleged conspiracy was hatched and alleged incident had occurred. It is submitted that both the petitioners are employees of Sukhdev Singh Namdhari. It is further submitted that letter has been written by Surender Singh s/o Sukhdev Singh Namdhari to Inspector Jitender Singh, SIT, Crime Branch dated 13.3.2013 in response to notice sent to him by the Crime Branch wherein he has mentioned that mobile number 9568500009 was used by Bakshish Singh on 16th and 17th November, 2012. It is further submitted that there are public witnesses who are yet to be examined. It is further submitted that evidence collected during investigation cannot be minutely examined at the bail stage. It is prayed that bail application is liable to be rejected.

10. I have considered the submissions made on behalf of the petitioners by the learned senior counsel as well as Id.SPP for the State.

11. Prima facie, there are serious allegations against both the petitioners. As per allegations, at the time of incident petitioners were present with deadly weapons like swords, lathis, hockey sticks, etc. The investigation has revealed that petitioners are henchmen of Sukhdev Singh Namdhari. Prime facie evidence through cell phone call detail record shows presence of present petitioners at the place of occurrence as they were in telephonic communication with each other. It is alleged that the location of petitioners was already found (as discerned from the CDRs) at or around the place of occurrence. Both the petitioners are residents of UP whereas CDR shows their presence in Delhi on 16-17.11.2012. As per allegations, petitioners and other co-accused persons had executed a vital part of the conspiracy in taking forcible possession of the farm house by throwing out the belongings of the occupants out of farm house No.42, DLF, Chhatarpur. For achieving the said purpose, injuries have also been caused to few persons.

12. The allegations of going to farm house No.42, DLF, Chhatarpur in groups armed with weapons and resorting to violence and abducting the complainant Nandlal from there, are serious allegations.

13. As per allegations, petitioners and the co-accused persons had forcibly evicted the occupants of farm house No.42, DLF, Chhatarpur by using deadly weapons

during the execution of the conspiracy and were also involved in beating the occupants of farm house, looting their belongings and ransacking the farm house. The charge has already been framed against the petitioners under Section 120B read with Section 307/147/148/149/323/325/342/365/368/395/397 and 452 IPC. They have also been charged separately under Section 147/148/149 and 452 of IPC. There is a prima facie evidence on record in the form of call detail records pointing out that the petitioners were involved in the conspiracy and also their presence at the spot. The case is at the threshold. The public witnesses are yet to be examined. The chances of tampering with prosecution evidence cannot be ruled out. Further, the offence is also heinous. The judgment cited by the learned senior counsel for the petitioners have been gone into. The same are not relevant at this stage. In the facts and circumstances of the case, present is not a fit case for bail. The bail application is rejected. VEENA BIRBAL, J MAY28 2014 ssb/kks

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