

Dhananjay Vs. State of Maharashtra

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Court : Mumbai Nagpur

Decided On : Jun-24-2016

Judge : S.B. Shukre

Appeal No. : Criminal Writ Petition No. 418 of 2016

Appellant : Dhananjay

Respondent : State of Maharashtra

Judgement :

Oral Judgment:

1. Heard.
2. Rule. Rule made returnable forthwith.
3. Heard finally by consent of learned counsel appearing for the parties.
4. This criminal writ petition has been very strongly opposed by the learned Additional Public Prosecutor.
5. However, on merits of the case, I find that no purpose would be served by keeping the petitioner in jail for any longer period of time. The reason is that on 15.4.2013, the petitioner was granted bail on the ground that his role was secondary to the role of the main accused Mukesh Jadhav and that investigation was so far as this petitioner was concerned, was also over. It was also noted by

this Court that by 15th April, 2013, this petitioner had spent time of about 40 days in custody.

6. Subsequently, an application was filed by the prosecution seeking cancellation of bail so granted to the petitioner on the ground that the summons issued by the Investigating Officer for attending the police station was disobeyed by this petitioner. The bail that was granted to the petitioner was conditional and his attendance at the police station was one of the conditions observed in breach by the petitioner and also it was subsequently noticed by this Court that the petitioner was not co-operating with the Investigating Agency and had to be produced before the Court in execution of a non-bailable warrant and so, this Court later on thought it fit to cancel the bail granted to the petitioner on 15th April, 2013.

7. Now, the petitioner has again spent about one and half month in jail and the charge-sheet has still not been filed. The prosecution was granted an opportunity to interrogate the applicant while he was in jail custody during the period from 15.6.2016 to 19.6.2016. The requisite permission was granted by the trial Court. However, on the ground that the Investigating Officer was arrested in an anti corruption case, the interrogation of the petitioner could not be carried out by the Investigating Officer, submits the learned Additional Public Prosecutor. The Investigating Officer was arrested on 15.6.2016 and, therefore, time of four days was still available for the prosecution to interrogate the petitioner and same could have been utilized by the prosecution by handing over the charge of the investigation to some other competent officer. That was not done by the prosecution. It appears that on 20th June, 2016, another application was moved before the learned Magistrate seeking extension of time of interrogation of the petitioner. Considering the pendency of that application, this Court thought it fit to grant further time to the prosecution and accordingly an order was passed to that effect on 21st June, 2016. The Investigating Officer was granted further time to interrogate the petitioner by allowing the application dated 20.6.2016 by the trial Court. The time that has been granted now is from 30.6.2016 to 4.7.2016. It appears that the Investigating Officer did not make any effort to seek the extension of time from 21st June, 2016 and the result is that because of such an order passed by the trial Court, the petitioner would be kept waiting while in jail custody

till the Investigating Officer decides as per his choice to interrogate him. It must be noted here that the convenience of the Investigating Officer is important, so is the personal liberty of the petitioner. If the petitioner is being kept in jail only for the purpose of his interrogation by the Investigating Officer and the Investigating Officer is taking his own time to do so, this Court would have to intervene and protect the personal liberty of the applicant as well. After all, the petitioner has been granted bail by this Court and now that the opportunity has been given to the prosecution, the opportunity, it is the expectation of law, ought to have been utilized by the prosecution optimally and appropriately. That has not been done by the prosecution.

8. In these circumstances, I am of the view that the petitioner would be entitled to be released on bail by imposing stringent conditions. I must make it clear that one of the grounds raised in this petition relates to the statutory right of bail of the petitioner and I do not think it necessary to make any determination in respect of same as on merits of the case, the petitioner has been found entitled to be released on bail.

9. In the result, the criminal writ petition is allowed.

It is directed that the petitioner be released on bail on his furnishing a P.R. Bond in the sum of Rs.25,000/- and two solvent sureties of Rs.25,000/- each on following conditions :

i) the petitioner shall attend the Office of the Crime Branch, Nagpur every day between 11.00 a.m. and 1.00 p.m. for a period of one week, starting from the date of his release and also on such other date and at such other time, as may be required by the Investigating Officer.

ii) shall co-operate with the Police in the investigation and shall not tamper to the prosecution witnesses.

iii) The petitioner shall furnish his permanent address together with landline number of telephone, if any, and mobile number to the Investigating Officer along with proof of address such as Aadhar Card, Passport, Driving Licence, PAN

number and so on.

iv) The petitioner shall reside in Nagpur and shall always make himself available to the prosecution for the purposes of investigation, as and when required and if the petitioner intends to change the residential address, he shall do so only with prior permission of the Court having jurisdiction over the case.

10. Rule is made absolute in these terms.

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