

Sagar vs.state

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Court : Delhi

Decided On : Nov-29-2017

Appellant : Sagar

Respondent : State

Advocate for Pet/Ap. : Mr. Vikrant Goyal

Judgement :

\$~ * + IN THE HIGH COURT OF DELHI AT NEW DELHI BAIL APPLN. 1414/2017
Order reserved on:

21. t November, 2017 Order pronounced on:29th November, 2017 Singh Advocates. Through: Versus SAGAR .Petitioner Mr. Vikrant Goyal, Advocate with, Ms. Sakshi Kakkar and Mr. Ajit STATE ..Respondent 1. CORAM: HONBLE MS. JUSTICE SANGITA DHINGRA SEHGAL By way of the present application filed under Section 439 of the Mr. Akshai Malik, APP for the Insp. Sheelawant State with Singh, P.S. Baba Haridas Nagar, New Delhi. Through: Code of Criminal Procedure, 1973 (hereinafter referred as 'Cr.PC.'), the petitioner seeks grant of Regular Bail in FIR No.469/2014 under Sections 302/307/147/148/149 of the Indian Penal Code, 1860 (hereinafter referred as 'IPC') registered at Police Station Baba Haridas Nagar, New Delhi. Status report is on record.

2. The present case is registered on the complaint of one Bijender who stated that on 30.07.2014 at about 09:30 p.m. a quarrel had taken place between him, his

family members on one side and his neighbours namely Suresh, Ramesh and Naresh, their family members on the other; that during the said quarrel Suresh alongwith his brothers Ramesh and Naresh and wife/Preeti started BAIL APPLN. 1414/2017 Page 1 of 5 manhandling him; that thereafter the complainant's brother in-law's son Ravi/deceased intervned alongwith his brothers Sachin, Naveen and Shyambir, to pacify the matter but in the meantime accused Suresh called his other associates namely Rahul, Sandeep, Vikrant Birla, Sagar and Mukesh, who arrived at the spot with bats, knives and iron rods; that accused Sandeep caught hold of Ravi from behind whereafter accused Rahul stabbed Ravi with a knife and Sandeep rotated the knife and pulled it out after which blood started oozing out from Ravi's body; that all the accused persons fled away from the spot of incident after which the police was reported and Ravi was taken to the hospital where he was declared "brought dead";that the accused persons also inflicted injuries on complainant's son Vineet and his relative Sachin; that hence a complaint was lodged against all the accused persons namely Rahul, Sandeep, Vikrant Birla, Sagar, Mukesh Kumar, Naresh Kumar, Suresh, Ramesh Kumar and Preeti.

3. Mr. Vikrant Goyal, learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case; that the petitioner had no reason to commit any offense against the deceased or his family; that the prosecution has produced no independent witness which creates a doubt on the genuineness of the prosecution case; that PW-4 PW-5, PW-15 and PW-16 have not supported the case of the prosecution; that there is an inordinate delay in recording the statements of the witnesses although they were all present in the hospital on 30/07/2014; that out of total of 31 prosecution witnesses, 21 witnesses have been BAIL APPLN. 1414/2017 Page 2 of 5 examined and now only formal witnesses are left to be examined; that as the examination-in-chief and cross-examination of all the material witnesses has been concluded there is no chance of the petitioners tampering with the prosecution evidence; that hence in the said circumstances bail be granted to the petitioners.

4. Per Contra, Mr. Akshai Malik, learned APP for the State opposed the bail application of the petitioner and submitted that serious allegations have been made against the petitioner; that he has been charged for offences under Section

147/148/149/302/307 IPC for which maximum punishment is death or imprisonment for life; that the prosecution witnesses have supported the case of the prosecution to a large extent; that keeping in view the gravity of offence bail must not be granted to the petitioner.

5. I have heard the learned counsel for the parties and perused the material on record.

6. The complainant, in his statements recorded during his Examination-In-Chief, has attributed specific role to the petitioner whilst deposing as under:-

""Sandeep had joined Suresh and his associates namely Naresh and Ramesh along with his associates namely Rahul, Vikrant, Mukesh and Sagar. Suresh was having lathi, Rahul was having a knife, Vikrant, Mukesh and Sagar were having Dandas..... Accused , Sagar, Vikrant and Mukesh were armed with wooden logs/dandas and gave beatings to Vineet and Sachin. Sachin had received injury on his head and Vineet received injury on the left hand."

BAIL APPLN. 1414/2017 Page 3 of 5 7. The complainant's son Vineet Kumar also deposed on similar lines and stated as under:-

""Suresh also called 3-4 associates namely Rahul, Vikrant, Sagar, Sandeep and Mukesh. Accused Rahul was having knife, accused Sandeep, Sagar, Vikrant were having Dandas and accused Suresh was having a Lathi. Accused Sagar was having iron rod..... I was trying to save Ravi, in the meantime accused Sagar inflicted injury to me on my left hand by iron rod....."

8. Further, victim Sachin, present at the spot, deposed as under :-

""At this stage witness pointed out towards the accused Suresh, Sagar, Ramesh and Naresh, who had given beatings to me by using wooden logs/ dandas."

9. Reference may be made to the judgement of the Apex Court in Kalyan Chandra Sarkar vs. Rajesh Ranjan, reported in, 2004 (7) SCC528 wherein the principles of granting or refusing bail have been laid down : The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a

judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non- application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are: BAIL APPLN. 1414/2017 Page 4 of 5 a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence. b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. c. Prima facie satisfaction of the court in support of the charge. 10. Keeping in view the aforementioned facts and circumstances of the case; specific allegations made in the FIR against the petitioner; the evidence recorded till date wherein the petitioner has been assigned a specific role in the commission of the alleged offence; the gravity of the alleged offences and severity of the punishment prescribed in law, I find no sufficient ground to grant bail to the petitioner.

11. Accordingly, the petition stand dismissed.

12. Before parting with the above order, it is made clear that observations made in the order shall have no impact on the merit of the case. NOVEMBER29 2017 /gr// SANGITA DHINGRA SEHGAL, J.

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