

Siddhartha Vs. the State of Bihar

Siddhartha Vs. the State of Bihar

SooperKanoon Citation : sooperkanoon.com/128701

Court : Patna

Decided On : Mar-31-1999

Judge : P.K. Sarkar, J.

Appeal No. : Criminal Misc. No. 1740/99

Appellant : Siddhartha

Respondent : The State of Bihar

Disposition : Petition Dismissed

Judgement :

P.K. Sarkar, J.

1. This petition for bail has been filed on behalf of the accused-petitioner Siddhartha who has been taken into custody in connection with Kadam Kuan P.S. Case No. 574/98 dated 5.9.98. This case was initially instituted for the offence under Sections 307, 226 I.P.C. and 27 of the Arms Act on the basis of a fardbyan of one Rohan Prakash. Subsequently, Sections 302, 120(B) I.P.C. were also added.

2. The facts of the case in brief are as follows. Originally this case was instituted on the basis of a fardbyan of one Rohan Prakash who alleged to be studying at the residence of Prof. J.C. Banerjee at Rajendranagar, just before the time of

occurrence when one boy came and called Abhishek (deceased) and Abhishek went out of the door. He was fired by that boy and was killed. In course of investigation, the Police found that the entire occurrence happened on an alleged conspiracy hatched up at the bed room of this petitioner Siddhartha. This petitioner Siddhartha is the king-pin of the entire conspiracy and it was executed by him through the co-accused Arnit Das, according to his imagination. The Police arrested the co-accused Arnit Das who gave his statement under Section 164(2) Cr.P.C. before the Judicial Magistrate and accepted the entire conspiracy hatched up by this accused petitioner Siddhartha. He also accepted the fact that he committed the murder but at the instigation of this petitioner. The occurrence happened as the informant Rohan Prakash was in love with one Pallavi, a co-student who used to study tuition with Prof. J.C. Banerjee along with Abhishek and Rohan Prakash. It is said that Rohan used to love Pallavi but Pallavi used to like Abhishek. This infuriated the co-accused persons and under the leadership of this petitioner and in his guidance the occurrence happened. Thus, though the F.I.R. was instituted against unknown, Police found the conduct of the informant Rohan Prakash suspicious and the informant along with this petitioner Siddhartha, Arnit Das, the assailant were made accused in this case. Co-accused Luxman, the servant of the petitioner has absconded.

3. The learned Counsel for the petitioner submits that admittedly, this petitioner is not the main assailant. It is co-accused Arnit Das who is said to have fired and killed the deceased Abhishek. At best the allegation against this petitioner is that of a conspirator. It is also submitted that the motive for the occurrence has also not been established by the prosecution.

4. The learned Counsel for the petitioner further submits that there is no dispute of this fact that Abhishek died in an unfortunate incident. However, the Police in order to get rid of themselves from solving the mystery of murder of Abhishek, put an entirely imaginative story and falsely implicated the petitioner. It is further submitted that the entire case is based on the statement of one Haridwar Singh who claimed himself to be an eye-witness of the occurrence. The said Haridwar Singh told the Police that the boy who was standing there uttered 'Arnit run away' and he himself ran towards the west. It is said that subsequently this Haridwar

Singh identified this petitioner as the person who asked Arnit Das to run away. It is further submitted that before identification, the petitioner was shown to the witnesses. A petition to that effect was also filed before the Court concerned and the identification was challenged. It is also submitted that the Police got the confessional statement of Arnit Das recorded by the torturing him. Subsequently, Arnit Das filed a petition before the Court concerned disowning his statement. It is also submitted that the Superintendent of Police in his Supervision Note observed about the fact of asking Arnit by this petitioner to run away before the same was actually stated by Haridwar Singh. This creates a doubt in the mind that the senior Officers of the Police actually hatched up a false case and implicated this accused. It is further submitted that the Paragraphs in which learned Sessions Judge has relied, does not show the specific involvement of this petitioner. Moreover, the accused-petitioner is in custody since 11.9.98. Hence, it is submitted that the petitioner deserves bail.

5. The learned Special Public Prosecutor submits that Rohan Prakash who is also a co-accused in this case became the informant to save his own skin and also that of his associates and thereby misled the entire investigation. The Police arrested co-accused Arnit Das who gave his confessional statement before the Judicial Magistrate which is on record. From the aforesaid statement it will be amply clear as to what role was played by this petitioner. The said confessional statement will show that this petitioner is the king-pin of the entire conspiracy and at his instance and guidance, the scheme of the conspiracy was executed by co-accused Arnit Das as a result Abhishek was murdered. Thus, it is this petitioner who forced the co-accused Arnit Das to get the murder committed and even threatened that unless he does so, he himself will be murdered. It also appears that this petitioner, the informant Rohan Prakash and the deceased Abhishek were in love with the girl Pallavi and Sweta which served the motive for the occurrence. It is further submitted that the statements of some students of Science College recorded by the Police show that there was previous enmity between these persons and earlier the deceased was threatened by them. The statement of Arkoprattim Banerjee also shows the fact that he saw pistol with Arnit Das and on the next day he saw in the newspaper regarding the occurrence matter. On 7.9.98 when he came to the house of co-accused Arnit Das, he saw Luxman there to whom Arnit returned a

country-made pistol and two cartridges. It is further submitted by the learned Special Public Prosecutor that the statements of the two girls Sweta and Pallavi and other students coupled with other evidences recorded by the Police fully establish the fact that this petitioner was actually the main brain behind the conspiracy and under his leadership and guidance the entire occurrence happened. The learned Special Public Prosecutor, therefore, submits that this petitioner cannot escape the responsibility of the gruesome murder of the teen-aged boy in such a dramatic fashion. It is further submitted that Rohan Prakash who is the informant of this case and subsequently made an accused, prayed for bail before this Court which was dismissed on 25.1.99 in Cr. Misc. No. 27493/98 by a Bench of this Court. The petitioner went before Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 855/98 and the same was dismissed on 26.3.99. The allegation against Rohan Prakash admittedly, is less graver than this petitioner since the allegation against him is that of a conspirator. But the allegation against this petitioner is not only of a conspirator but under his leadership the plan of conspiracy was executed.

6. I have carefully gone through the submissions of the parties. Admittedly, there is no direct allegation of assault against this petitioner, but the entire story of the commission of the murder centres round him. It is said that this petitioner gave arms to the co-accused Arnit Das and also persuaded him to commit the murder of Abhishek. In that view, though, this petitioner did not give a fatal shot, his responsibility cannot be taken in less easier vein. The fact that subsequently co-accused Arnit Das filed a petition before the Court concerned disowning that the confessional statement made by him was made voluntarily, at this stage cannot be given much credence in view of the fact that the statement shows that the learned Judicial Magistrate explained the matter fully to the co-accused Arnit Das and, thereafter, he made his confessional statement.

7. In view of the facts stated above, I do not find it a fit case to grant bail to the petitioner. The prayer for bail of the petitioner is, therefore, rejected.