

Hari Ram Vs. State

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Court : Delhi

Decided On : Nov-03-1988

Reported in : 1989(16)DRJ77

Judge : H.C. Goel, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Miscellaneous Appeal No. 1158 of 1988

Appellant : Hari Ram

Respondent : State

Advocate for Pet/Ap. : P.P. Grover and; S.T. Singh, Advs

Judgement :

H.C. Goel, J.

(1) This is a petition under Section 482 Cr. P.C. directed against the impugned order dated October 29, 1988 of Shri R.C. Jain, Additional Sessions Judge, Delhi by which he has rejected the bail bond of Bal Kishan Jaggi surety as presented on behalf of Hari Ram accused-petitioner in pursuance to a bail order passed by this Court. Hari Ram accused- petitioner was directed to be released on bail on his furnishing a personal bond in the sum of Rs.10,000.00 with one surety in the like

amount to the satisfaction of the trial court namely, the court of Shri R.C. Jain, Additional Sessions Judge, Delhi by order dated October 12, 1988. A surety bond was furnished on behalf of the petitioner by one Bal Kishan Jaggi, a resident of Model Town, Delhi. The learned Additional Sessions Judge sent for a report from the police station concerned regarding sound worthiness of the surety. After obtaining the report from the concerned police the surety bond of Bal Kishan Jaggi was rejected by the learned Additional Sessions Judge. In his report the SHO, police station Tilak Nagar, New Delhi has stated that the surety Bal Kishan Jaggi was a sound person to stand surety in the sum of Rs. 10,000.00 . The trial court, however, rejected the bail bond of Bal Kishan Jaggi making certain observations. In the first sentence it is stated in the impugned order that Bal Kishan Jaggi is a resident of Model Town, whereas the accused Hari Ram for whom he wants to stand surety is a resident of Tilak Nagar. I fail to see as to how that at all mattered. There is no requirement of law that a surety must necessarily be even of the same city to which the accused belongs, In any case, the fact that the surety is a resident of another locality of the same city is hardly any ground which can be considered as a circumstance against the surety in the matter of acceptance of his bond. The next observation of the learned Additional Sessions Judge is that Bal Kishan Jaggi had stood surety for this very accused earlier when the accused was admitted to interim bail, but that thereafter a co-accused of Hari Ram, the present petitioner, had jumped the interim bail that was allowed to that co-accused of the petitioner. This again is no circumstance at all against Bal Kishan Jaggi's standing as a surety for Hari Ram accused-petitioner as he never stood surety for the person who had jumped bail and who was only a co-accused of the petitioner for whom some other person had stood surety. The next observation in the impugned order is that it is not the amount of surety bond or the status alone which would decide the soundness of the surety, but that other factors have also to be taken into account by the court, particularly in a case under Section 302 of the Indian Penal Code. The learned Additional Sessions Judge has not even remotely indicated as to what other circumstances have to be taken into account in the matter of acceptance or rejection of a bail bond other than the question of the surety being having the financial status of furnishing the bail bond in the amount asked for from the accused and also his status which means financial as well as

social status. Lastly, the learned Additional Sessions Judge has stated that on a consideration of the entirety of the facts and circumstances appearing on the record Bal Kishan Jaggi was not considered to be a surety sound enough who has full control over the accused Hari Ram and on this premise the bail bond was rejected. The learned Additional Sessions Judge has not indicated any thing in his order at all as to what are those other circumstances on the totality of which the learned Additional Sessions Judge was of the view that Bal Kishan Jaggi could not be considered to be a sound surety or a fit person to stand surely for Hari Ram petitioner. I am also not able to comprehend the observation in the impugned order that the surety must have full control over the accused person for whom he stands surety. I am unable to see as to how a person can or cannot have full control over another person in the matter of securing attendance of the other person namely, an accused person at the trial before the court or to see that he complies with the conditions of bail or does not jump bail. Besides that so far as Bal Kishan Jaggi is concerned, he is stated to be a near relation of the petitioner Hari Ram. He is the brother of the wife of Hari Ram. That being so, he is certainly in a position to keep in touch with the accused and to keep himself informed about the movements and whereabouts of Hari Ram accused. Mr. Sodhi, learned Public Prosecutor 79 for the State, frankly and fairly conceded that the impugned order is wholly indefensible. I accordingly accept the petition, set aside the impugned order of the learned Additional Sessions Judge and direct the learned Additional Sessions Judge to accept the bail bond of Bal Kishan Jaggi for an on behalf of Hari Ram accused-petitioner in accordance with law. dusty.