

State (Delhi Administration) Vs. Devid Richard Hall

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Court : Delhi

Decided On : Apr-16-1986

Reported in : 30(1986)DLT435

Judge : Sunanda Bhandare, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439(2)

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 847 of 1986

Appellant : State (Delhi Administration)

Respondent : Devid Richard Hall

Advocate for Pet/Ap. : S.T. Singh and; V.K. Ohri, Advs

Judgement :

Sunanda Bhandare, J.

(1) In this application under Section 439(2) read with serration has prayed turn the cancellation of the bail granted to Devid Richard Hall in case Fir No. 180 dated 23-12-1985. Devid Richard Hall was granted bail by the Additional Sessions Judge, New Delhi vide order dated 6th February 1986 on his executing personal bond with one surety in the sum of Rs. 12,000.00 in a case registered against him under Section 21123 of N.D.P.S. Act 1985. Since the respondent failed to furnish surety bond the Additional Sessions Judge permitted the respondent to deposit the

amount of surety in cash. The respondent deposited the cash on the same day thus he was released.

(2) It was contended by the learned counsel for the petitioner, Delhi Administration that after his release, Devid Richard Hall on 11th February 1986 met the international criminal Charles Shobraj in Tihar Jail Along with four persons, two of them being advocates. He stayed in a guest house at Anand Niketan between the period 10th February 1986 to 26th February 1986 and even during this period regularly went to see Charles Shobraj in Tihar Jail but no entry of his visits was made in the jail register. He is alleged to have purchased a revolver and a pistol. He purchased larpose tablets in large quantities from a chemist in Connaught Place on several occasions which were later on administered on the jail staff to facilitate the escape of Charles Shobraj and other convicts and undertrials to escape from Tihar Jail. It was submitted that because of the active assistance of Devid Richard Hall on 16th March 1986 Charles Shobhraj and other notorious prisoners escaped from Tihar Jail. Ultimately Devid Richard Hall was arrested while in company of Charles Shobraj at Goa. It was contended that the above facts show that the. medical ground was a concocted story and in fact he had been obtained a false medical report. The jail doctor who had given the report has since been absconding and a case has been registered against the doctor. It was therefore, submitted that Devid Richard Hall who is involved in narcotic trade having misused his liberty the bail obtained by him on medical ground be cancelled.

(3) Before filing the present application a similar application was filed before the Additional Sessions Judge, New Delhi which was rejected on 29th April, 1986.

(4) On notice being issued to the respondent Devid Richard Hall, he was produced in Court on 4th June, 1986 when he stated that he would like to be represented by a counsel. Oral submissions were advanced by the learned counsel at the time of the hearing of the case refuting the allegations.

(5) It was contended by the learned counsel for the respondent that since the respondent had not violated the conditions of bail granted by the Additional Sessions Judge merely because a fresh case has been lodged against the

respondent his earlier bail orders should not be cancelled. It was contended that the only condition imposed by the learned Additional Sessions Judge was that the respondent will not leave India while on bail and from the facts there is nothing to show that the respondent even attempted to leave the country. It was further stated that though allegations are made against the doctor who had given the medical report certifying ill health of the respondent no case has been registered against the doctor for giving false certificate but only a case for absconding from service is registered. It was further argued that since the respondent has been arrested and is in custody in another case there was no need of cancellation of bail in the present proceedings.

(6) I have carefully considered the rival contentions of the parties and I find that prima-facie the submissions and apprehensions expressed by the petitioner are well founded. It is well settled that considerations which weigh while granting bail under Sees. 437 and 439(1) of Criminal Procedure Code are different than the considerations which weigh with the court when the bail already granted is to be cancelled under Section 439(2) of the Criminal Procedure Code . Ordinarily, the High Court does not interfere with an order of bail granted by the Sessions Judge in favor of an accused. However, if special circumstances are shown by the prosecution which lead to the conclusion that the accused while on bail has abused or is likely to abase his liberty the power of the High Court under Section 439(2) of the Criminal Procedure Code is wide enough to cancel a bail even on grounds which may not affect the trial of the case in which he was earlier granted bail. In my opinion, the bail is refused or cancelled not only when there is an apprehension that an accused will misuse his liberty in regards to the proceedings in the case in which he had been granted bail but also when there is a genuine apprehension that he would indulge in other criminal activities which may not be connected with the pending trial because in such a case his activities are bound to have an impact on the course of conduct of the trial in which he has been granted bail.

(7) In the present case the respondent was granted bail mainly on medical grounds. The facts indicate that the respondent has been going around as more than a hale and hearty person and in fact he was arrested at Goa in circumstances

which indicate that nothing was wrong with his health. Serious allegations are made against him for having assisted in the escape of convicts in Tihar Jail and he was found in the company of one of them when he was arrested. In my opinion, in view of the supervening circumstances it would no longer be conducive to a fair trial to allow the accused to retain his freedom during the trial. In this case there is also an additional genuine apprehension that the respondent may flee from justice and may not be available for his trial. Moreover, in the peculiar facts and circumstances of the case it will also be against larger interest of the public to release the respondent on bail.

(8) I find no substance in the contentions of the teamed counsel for the respondent that since the accused has been arrested and is in custody in another case there is no need of an order of cancellation of bail in the present case. This argument is self destructive. As I am prima-facie satisfied that the respondent is likely to flee from justice it is necessary that the order of cancellation should be made in these very proceedings. If the order of bail is continued it means that he is otherwise fit to be on bail in these proceedings. This is not the case.

(9) I also find no substance in the contention that since the respondent had not violated the condition imposed by the Sessions Court while granting bail no interference is warranted. The inherent condition of bail is that the accused will not misuse his freedom while on bail and if for good reasons the court feels that a fair trial is likely to be jeopardised or the accused has or is likely to interfere with the course of justice, the bail has to be cancelled. Since in my opinion, the respondent by his subsequent conduct forfeited his right to be released on bail, the bail granted to him deserves to be cancelled.

(10) It is however made clear that nothing stated herein- above shall prejudice the respondent in his defense in any of the two trials in any manner whatsoever.

(11) In the result the petition is allowed. The bail granted to Devid Richard Hall by the Additional Sessions Judge vide orders dated 6th/ 10th February 1986 in Fir No. 180 dated 23rd December, 1985 under Section 211/23 of the N.D.P.S. Act 1985 P. S. Palam Air Port, New Delhi is cancelled.

