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**Court :** Delhi

**Decided On :** Apr-24-1984

**Reported in :** 1984(7)DRJ94

**Judge :** Jagdish Chandra, J.

**Acts :** [Official Secrets Act, 1923](#) - Sections (3); [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

**Appeal No. :** Criminal Miscellaneous (Main) Appeal No. 294 of 1954

**Appellant :** Jasbir Singh

**Respondent :** The State

**Judgement :**

**Jagdish Chandra, J.**

(1) The petitioner cannot be said to be innocent and rather this evidence point towards his guilt under Section 3 of the Official Secrets Act 1923 looking especially to the visits of the petitioner to the aforesaid two libraries and inspecting there the secret and restricted documents-books under an identity card which though belonged to him while in service, ought to have been surrendered by him on his retirement, and was made use of by him or for eliciting information which could be detrimental and prejudicial to the security and interest of the State and

advantageous to or foreign country. Furthermore, petitioner's disclosure and the consequent recovery of the defense/telephone directory belonging to Lt. Genl. Pattangell from the house of petitioner's employer J.S. Gill and the petitioner developing friendly terms with Lt. Genl. Pattangell and thus visiting his house for telephone calls from that directory go to show that the petitioner stole the same from the house of Lt. Genl. Pattangell for onward transmission to his employer J. S. Gill and in this context the developing of intimacy by the petitioner with Lt. Genl. Pattangell looks quite meaningful especially when this directory was a restricted document and its contents were not to be communicated to any person who is not a Government official and the disclosure thereof to an unauthorised person like J. S. Gill is prejudicial to the security and interest of the State.

(2) The prima-facie inference of guilt of the petitioner is reassured from the confessional statement dated 10-11-1983 of the co-accused Maj. Genl. F.D. Larkins (retired) who stated as follows :

'.....I used Lieutenant Col. Jasbir Singh (Refd.) to obtain verbal information for me from November, 1979 to May, June, 1981. During this period he was paid Rs. 1000.00 . P.M. and information he obtained was of military nature particularly relating to T-72 Russian Tanks. In between June, September, 1980 Lieutenant Col. Jasbir Singh (Retd.) got me 7 or 8 classified manual relating to T-72 Russian Tanks. For first 5 he was paid Rs. 5,000.00 . for each manual and for the remaining three he was paid Rs. 10,000/- for each manual. During this period, he also got me a restricted pamphlet relating to identification of armoured fighting wagons. This publication was issued by Army Headquarter in about June 1970.....'

(3) Even though the aforesaid confession was retracted by the maker thereof and this being confession of a co-accused cannot be treated as substantive evidence, it can still be used as a reassuring factor regarding guilt of the petitioner which can be spelt out from the other evidence referred to above (vide Haricharan Kurmi v. State of Bihar, : 1964 CriLJ344 ).

(4) The contention of the learned counsel for the petitioner that the petitioner was a well connected person and a retired Lt. General and thus there was hardly any

possibility of his fleeing from justice and was not connected with any foreign agency, and thus deserves the grant of bail, cannot be accepted being indicative of insufficient grounds in the face of the nature and the gravity of the offence under Section 3 of the [Official Secrets Act, 1923](#) which is punishable with R.I. for 14 years. Even though the power of this court under Section 439 Criminal Procedure Code for the grant of bail is unfettered in non-bailable offences the seriousness of which is quite obvious, as in the case in hand, the court should refuse bail (vide *The State v. Captain Jagjit Singh*, : [1962]3SCR622 ).

(5) FACTS-IN-BRIEF The petitioner, a retired Lt. Colonel of the Indian Army took the police party to the Library (Technical Information Centre) and the police party recovered 29 documents which were either 'Restricted' or 'Secret' which had been used by the petitioner after using the identity card which he possessed while he was on service. The petitioner also passed on a secret defense telephone directory to Jaspal Singh Gill, a civilian, in exchange of money. The secret defense telephone directory was recovered from Jaspal Singh Gill. The directory had initially been issued to Lt. Gen. E.G. Pattangell who in a statement under Section 164 Criminal Procedure Code . confessed that the directory had been stolen from his custody.

(6) The petitioner had been nabbed under Sections 3, 5 and 9 of the Indian official secrets Act, 1923. Bail application before the learned Chief Metropolitan Magistrate and the learned Session Judge having been rejected, the present petitioner for bail has been moved.

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