

Ramrati Vs. Ram Kishan and ors.

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Court : Delhi

Decided On : May-07-1984

Reported in : 1984(1)Crimes1022; 26(1984)DLT47

Judge : H.L. Anand, J.

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 1101 of 1983

Appellant : Ramrati

Respondent : Ram Kishan and ors.

Advocate for Pet/Ap. : Ram Jethmalani,; S. Bhardwaj,; K.K. Sud and;

Judgement :

H.L. Anand, J.

(1) Having regard to the settled law relating to grant Of bail, and principles for its cancellation, there is no justification to cancel bails in the facts and circumstances of the present case. The unfortunate incident of double murder was a sequel to a minor quarrel between two families' who have apparently been living a peaceful life in the village. (The families have no background of previous hostility.) (The accused person admittedly have clean antecedents and one of them, Jagan, is a graduate. There are no allegations that the accused are likely to abscond. Accused persons have been on bail since the middle of 1983 and have been

regularly attending proceedings in the trial courts) There is no motion for cancellation by the administration. There are no independent eye-witnesses of the incident. The alleged eye-witnesses are members of the aggrieved family. There is, therefore, no danger of tampering with evidence either. Moreover, important eye-witnesses have already been examined and cross-examined. The accused persons are alleged to have given lathi blows and there are allegations that accused persons were also subjected to similar blows. At least 4 persons belonging to the family of the accused have admittedly received injuries. Injuries received by one of the accused persons is said to have been fairly serious. These features eminently justified orders of bail.

(2) Cancellation of bail was sought to be justified on the basis of two reports of August 5, 1983 and October 26, 1983. These reports, which were recorded at the instances of Jai Karan, a member of the aggrieved family, make allegations that the members of the family, who were witnesses, were threatened. When the report of August 8, 1983 was recorded, none of the accused persons, whose bails are sought to be cancelled, had even been granted bail. The other report was made two days after the bail of Jagan was confirmed by this court. None of these reports mention the names of any person in whose presence the threats were held out. Jaikaran is a Police constable still in service. The possibility of false reports of threat to the witnesses either to stall a bail order or to secure its cancellation could not be altogether ruled out. Moreover, there are no independent eye-witnesses who could be susceptible to influence or pressure.

(3) Bail to Ram Kishan was granted subject to the condition that he would make provision for the maintenance of the widow and the children of the victim by an interest bearing deposit of Rs. 10,000.00 . The condition has since been satisfied by him. Cancellation of bail of Ram Kishan is sought to be justified on the further ground that the maintenance is not acceptable to the widow and the children of the victim, apparently because of sentimental reasons. But that would not justify the cancellation of bail in that, having regard to all the circumstances, bail even without such a condition could be justified.

(4) There is however, no justification to rescind the condition with regard to the maintenance and there is no reason why accused Ram Kishan should be allowed to withdraw the principal amount or accrued interest. Maintenance is no doubt not acceptable to the widow and the children at this stage but learned counsel, who appeared for the widow and the children did not fore close the possibility that the widow and the children may see the maintenance order made in judicial anxiety to make a provision for the victim in its proper perspective in course of time. In any event, the amount no deposited would be available on the conclusion of trial. Should the trial court be inclined to make an appropriate order to compensate the widow and the children of the victim. Following the refusal of the widow to accept the maintenance, the Addl. Sessions Judge has sought directions as to what was to be done with the amount. The amount has already been deposited by the Addl. Sessions Judge, in the Indian Oil Corporation. The interest that has accrued on the amount and the further interest that may accrue in future be also deposited either in the said Corporation or in any nationalized bank in the name of the said court for a fixed period of one year. The position be reviewed if and when the maintenance is acceptable to the widow and the children.

(5) While there is thus no ground to cancel the bails or to vary the condition with regard to maintenance, there is some justification to impose additional conditions on the accused persons so as to avoid any possible unpleasantness. It was stated on behalf of the accused persons that both of them have since the incident been living in another village and rarely visit the Village in question. It is however, not possible to preclude the possibility that their unrestricted entry into the village may cause any avoidable unpleasant situation. While granting bail to Ram Kishan, I had directed that he would also furnish an additional bond undertaking to abjure violence and to be otherwise of good conduct during the period of the trial. Such a condition was, however, not imposed in the case of accused Jagan, I would, therefore, direct that:

(A) the accused persons would not enter the village in which the incident occurred except on urgent business of which the prior intimation would be given by them to the local police ; (b) accused Jagan would furnish a personal bond in the sum of Rs. 3000.00 with one surety in the like amount to the satisfaction of the Registrar

of this court, undertaking to abjure violence and to be otherwise of good conduct during the period of the trial. The additional bond would be furnished within one week.

(6) CR. M(M) 1101/83 is disposed of in these terms.

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