

Umed Singh Vs. State

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Court : Delhi

Decided On : Feb-18-1993

Reported in : 1993(25)DRJ381

Judge : Sat Pal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 3323 of 1992

Appellant : Umed Singh

Respondent : State

Advocate for Pet/Ap. : K.B. Andley and; B.T. Singh, Advs

Judgement :

Sat Pal, J.

(1) This is a petition under section 439 Criminal Procedure Code . for grant bail on behalf of the petitioner, Uimed Singh. The case of the prosecution is that on the night intervening 26/27-6-1992 complaint Sandeep along with his grand father was sleeping outside his house and at about 2.30/3.00 a.m. on the said night complainant got up suddenly on hearing the sound of some movements and he found co-accused Brahin along with his brothers Raj Singh and Uimed Singh (petitioner)

and co-accused Randhir Singh standing around their cots. It is further alleged that the complainant was secured by the petitioner and co-accused Brahin and on hearing the sound of altercation complainant's grandfather Chander Bhan also got up but immediately he was shot at by co-accused Raj Singh with his country made revolver. Thereafter co-accused Raj Singh is alleged to have fired a shot from his country made revolver at the complainant also. Shri Chander Bhan died at the spot as a result of the tire arm injury he sustained and subsequently on the basis of the statement of the complainant Saiideep, the present case Fir No.47/ 92 under sections 302/307/34 Indian Penal Code was registered at Ps Jafar Kalan Delhi. The petitioner was arrested on 30th June, 1992.

(2) Mr. Andley, the learned counsel for the petitioner submitted that the only role assigned to the petitioner is that he along with co-accused Brahin secured the complainant Sandeep and there was no allegation against him in Firing the shot at deceased Shri Chander Bhan or at the complainant Sandeep. In support of his contention the learned counsel for the petitioner relied on an order dated 29th September, 1991 passed by a learned Single Judge of this Court in CrI.M(M) 2058/91. In that case the petitioner was admitted to bail on the ground that though in the Fir it was alleged that he had picked up a jelly when he saw the complainant at about 5.30 p.m. but it was not at all alleged if he had given any blow with jelly either to the injured or to the deceased.

(3) Mr. B.T.Singh, learned counsel for the State submitted that in the present case it was at mid night the petitioner had accompanied the other co-accused one of whom, namely. Raj Singh was having a country made revolver and that co-accused is alleged to have fired a shot from that very revolver both at the deceased as well as at the complainant. The petitioner had participated in the conspiracy and is, therefore, not entitled to bail.

(4) I have heard the learned counsel for the parties and have perused the record. In Cr.M(M) 2058/91 the alleged happening was at about 5.30 p.m. but in the present cases the alleged happening is at about 2.30/3.00 a.m. in the night. The petitioner and other co-accused are likely to have conspired to commit the offence at that late hour at night. Without expressing any opinion on merits of the case, I

am of the view that this is not a fit case for grant of bail to the petitioner at this stage. Accordingly, the petition is dismissed. I may, however, make it clear that the opinion expressed hereinabove will have no bearing on the merits of the case.

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