

Mukesh Vs. State (Delhi Administration)

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Court : Delhi

Decided On : Mar-13-1993

Reported in : 51(1993)DLT84; 1993(26)DRJ272

Judge : Sat Pal, J.

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

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 3008 of 1993

Appellant : Mukesh

Respondent : State (Delhi Administration)

Advocate for Pet/Ap. : P.P. Grover and; A.K. Singh, Advs

Judgement :

Sat Pal, J.

(1) This is a petition for grant of bail mainly on the ground that the petitioner has been in custody since 16th August, 1987 but only eight out of seventeen witnesses have been examined so far.

(2) Mr. Grover, learned counsel appearing on behalf of the petitioner, drew my attention to an order passed by this Court on the second bail petition being Cr.M.(M) No.464/92 on 14th May, 1992. By this order a learned Single Judge of

this Court transferred the case to the court of Shri Kuldip Singh, Additional Sessions Judge, with a direction to give short adjournments and dispose of the case preferably within four months. Learned counsel submitted that even about a year has lapsed from the date of the said order, but only one witness could be examined partly during this period. Learned counsel, therefore, contended that since the trial has protracted for about six years, the petitioner should be released on bail. In support of his contention learned counsel placed reliance on a Supreme Court judgment reported in Hussainara Khatoon and others vs . Home Secretary, State of Bihar, Patna, : 1979 CriLJ1036 and two judgment of this Court reported in Jagdish Kumar vs State (Delhi Administration) , 1990 Cri.L.J. 730 and in the case of Joginder Singh vs State, Cr.M(M) No. 2108/89 dated 20th December, 1989.

(3) Mr. Singh, learned counsel appearing on behalf of the State, however, submitted that delay in the disposal of the case is not because of any lapse on the part of the prosecution and as such the petitioner is not entitled to bail.

(4) I have given my thoughtful consideration to the submissions made by the learned counsel for the parties and have also perused the lower court record. From the record I find that after passing of the order dated 14th May, 1992, the case had to be adjourned on three occasions because of lawyers' strike but on two occasions the case was adjourned because the learned App was on leave. On one occasion the case was adjourned because no time was left with the court and on another occasion the summons for appearance of the witnesses were not returned by the SHO concerned and a notice had to be issued to the SHO. Now the case is fixed before the trial court on 12th July, 1993. Keeping in view all these facts, I am of the view that the petitioner should be admitted to bail for a period of three months from the date of release.

(5) Accordingly, I direct that the petitioner be released on bail for a period of three months from the date of release on his furnishing a bail bond in the sum of Rs.20,000.00 with one surety in the like amount to the satisfaction of the trial court.

(6) I further direct the learned trial Judge to fix the case for hearing atleast once every month till all the prosecution witnesses are examined. Trial court records be

sent back forthwith. With this order the petition stands disposed of.

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