

Sajjan Kumar Vs. State

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Court : Delhi

Decided On : Nov-07-1990

Reported in : 1991CriLJ645; 43(1991)DLT88

Judge : M.K. Chawla, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 438

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2073 of 1990

Appellant : Sajjan Kumar

Respondent : State

Advocate for Pet/Ap. : B.S.C. Singh,; B.R. Handa,; I.U. Khan,;

Judgement :

M.K. Chawla, J.

(1) On an application us 438 of the Code of Criminal Procedure, the petitioner was directed to be released on bail. in the event of his arrest by the Central Bureau of Investigation. Cbi Office, Cgo Complex, New Delhi, on his furnishing a personal bond in the sum of Rs. 20,000 with one surety in the like amount to the satisfaction of the arresting officer. He was. however, directed to join the investigation as and when called upon by the 10 b

(2) The respondent-OBI has filed the reply and has opposed the confirmation of the anticipatory bail of the petitioner on numerous grounds, namely :

(1) The petitioner is involved in a case of murder which is an offence of serious nature. He is an influential person of the area and is capable of organising huge rallies with a view to prevent the concerned persons not to be witnesses in the case. One of the eyewitness has in fact been threatened or serious consequences in case he attempted to depose against the petitioner. The treatment meted out to the officer, of the Cbi who had gone to the residence of the petitioner for search and his arrest on 11-9-90 by itself is an example of his influence.

(2) The investigation of this case where the accused is alleged to have organized a mob in targeted them to murder and burn the houses of a particular community is, at a crucial stage and the petitioner being at large, will certainly hamper the investigation.

(3) Most of the witnesses in this case are either widows, destitutes or uprooted persons and they are under the constant threat of the petitioner and his associates. Because of this terror, they are not coming forward to make the statements even though have been shifted to safer places.

(4) The Poti-Rosha Committee having found a prima facie case against the petitioner, has recommended the registration and investigation of the case by the Cbi and keeping in view the nature of the offence and the persons involved, anticipatory bail should not have been granted.

(5) The prosecution has still to take into possession 6 swords which were found in the house of the petitioner and were not allowed to be taken into custody. During this search, the petitioner has also been found in possession of the documents which in the ordinary course should not have been there;

(6) In this case, this court has granted the petitioner a blanket order of bail which is not in accordance with law and is liable to be cancelled.

(3) In order to demonstrate the seriousness of the offence, learned Additional Solicitor General referred to the affidavit and the statement of Aawar Kaur which

formed the basis of the registration of the case u/s 147, 148, 149, 247, 430/34 Indian Penal Code against the petitioner and 5 others at police station Punjabi Bagh, New Delhi. In brief, her case is that at the time of the assassination of the late Prime Minister Smt. Indira Gandhi, the petitioner along with her husband Shri Navin Singh, and children was living in her house No. A-4, Sultanpuri, Delhi. On 1-11-84, while she along with her other family members was present in her house, she saw thousands of people of the area armed with lathis, dandas, iron-rods and knives, looting the house of Sardars and setting them on fire. This mob was being led by Mr. Sajjan Kumar who was instigating them that all male folks be burnt to death and their property be looted. Under that instigation, her husband was dragged out and attacked with a sharp-edged weapon and burnt to death after pouring kerosene oil on him. Thereafter, her house was also burnt. She took refuge in the house of her daughter Film Kaur, who was residing in D-Block Sultanpuri. Late at night, some people came there and removed the burnt dead body of her husband, which till date is not traceable. This according to the learned Solicitor General is one of the most heinous crimes committed by the petitioner who is a known public figure of the area.

(4) On the second aspect that the petitioner is a man of great influence, learned counsel relied upon and referred to the incident of 11th September, 1990 when the officers of the Cbi went to the house of the petitioner at A-713, Janta Flats, Paschimpuri, at 6.45 A.M. in order to conduct search of the house and to arrest him. According to the affidavit of Shri G. S. Kapila, Dy. Superintendent of Police, Cbi, the search of the house concluded at 8.45 Am, but in the meantime, the petitioner managed to organise a huge crowd, which made it impossible for the officers to leave the premises of the petitioner. During the course of search, the respondent officers have seized few documents and six swords but they could not be removed on account of the law and order problem created by the petitioner outside his house. By the time the search was concluded, the mob outside the house inflamed, and was raising slogans against the Cbi and in favor of the petitioner. The mob in fact had barred the exit gate which made difficult for them to leave the premises. With the lapse of time, the mob continued to swell and provocative slogans were chanted through a loudspeaker system installed by the mob.

(5) According to Shri Kapila, the crowd threatened the search party with dire consequences in the event of the petitioner being arrested or harmed in any way. The mob then became violent and smashed and damaged the Maruti Jipsi and Ambassador car of the CBI. The search party tried their best to call for reinforcement from the local police but it could not be arranged. In fact the information conveyed to the search party by the high police officials was that it was impossible for the police to come to their rescue without inflicting heavy casualties, which in turn, may also endanger the safety of the search party. Ultimately, the search party could only be allowed to leave the premises after the anticipatory bail order from the High Court was received and conveyed to the persons waiting outside, on makeshift public address system by the petitioner.

(6) The submission of the learned counsel for the respondent is that the petitioner is politically a powerful and influential person who can directly or indirectly interfere in the course of investigation. Considering the seriousness of the offence and keeping in view the events that happened on 11th September, 1990, coupled with the fact that it has taken six long years to start investigation, there is every likelihood that if the petitioner is allowed to remain at large, no witness will come forward and depose about the events concerning this case. This potential threat to the prosecution witnesses, who have already experienced a haul cast during the rights will prevent them from bringing to book the accused and others charged of committing acts of brutality against the community. Under the circumstances, it is a fit case where the anticipatory bail be not confirmed.

(7) In order to appreciate the submission- of the learned counsel for the respondent one has to keep in mind the circumstances leading to the registration of the present case. The assassination of late Prime Minister Indira Gandhi on 31-10-84, was an unfortunate incident, but still more unfortunate were the events which took place thereafter, as a result of which a large number of anti-social elements came out of their houses in anger and indulged in incidents of rioting, looting, arson, assault and killing of innocent persons and burning their property throughout India. On first of November, 1984, such like incidents also took place in the locality of Sultanpuri, Delhi. Information of this incident was received at the Police station at about 2.10 p.m. It was recorded in the D.D. Register at Serial No.

11-A and the same was handed over to Si Sukhbir Singh for immediate action. Sukhbir Singh went to the spot and made preliminary enquiries. Later on, he sent a Ruqa to the police station for the registration of a case u/s 147, 148, 149, 395, 196 Indian Penal Code . The same was registered as Fir No. 250184. Then he recorded the statements of various witnesses who were the target of looting, arson and' assault. The Si collected the MLCs from the hospital and in view of the medical reports, further recommended the inclusion of Sections 307, 324 and 302 Indian Penal Code .

(8) On the demand of the victims that competent, responsible and experienced police officers be deputed to investigate these cases, the Government of India transferred the investigation to the Vigilance Department of the Delhi Police. Si Raj Singh was deputed to thoroughly investigate the case. During the investigation he associated responsible persons of the public with a view to enthuse confidence in the mind of the persons who have been subjected to and were the victims of this incident. Statements of large number of witnesses were recorded. As a consequence thereof a large number of persons were arrested.

(9) Even thereafter, certain sections of the society were not satisfied with the investigation of the Vigilance Branch of Delhi Police and insisted for the appointment of a Commission of Enquiry headed by a Judge of the Supreme Court, to enquire into the complaints and other co-related matter, arising out of the riots of 1984. For that demand the representatives of People's Union turn Civil Liberties (hereinafter referred to as PUCL) filed a writ petition in this court. In this petition, affidavits of number of persons were filed who in fact were the sufferers of the riots. This Cwp was finally dismissed.

(10) However, keeping in view the persistent demand of the so called voluntary organisation, the Government of India on 26th April, 1985, appointed Mr. Justice Ranganath Misra, sitting Judge of the Supreme Court to thoroughly investigate the happening after the death of Mrs. Indira Gandhi, and to find out, as to whether there was any organized mob violence at the behest of Congress workers and if there was, then suggest ways and means to punish the guilty. During the commission proceedings, Justice Misra accorded recognition to the Pucl and the

Citizens Justice Committee. The members of the said two committees personally went to places of incidents, to the camps where the inmates had been shifted and to various other places where many inmates had taken refuge. They collected many affidavits of the eye-witnesses and of the victims of assault including the next door neighbours of Anwar Kaur. On thorough examination of the affidavits, and other material placed on record, the commission came to the conclusion :-

'The news shows in clearest terms that rioting in proper sense had started in a very big way in several parts. of the city on 31st evening and except for killing which came into process from 1st November, 1984, every other form of attack on Sikhs had begun. The massive scale on which the operation had started so soon after the fact of death was circulated is clearly indicative of the fact that it was the spontaneous reaction of the people at large. The short span of time that intervened would not have permitted scope for any organising to be done. The gloom that had spread and affected the Congressmen in particular would not have permitted any such organisation to be handled. The reaction appears to have come as a flutter and sparked everywhere in a similar pattern.'

(11) The Commission further concluded that no responsible person in authority of Congress-1 hatched any conspiracy or organized large scale rioting, looting, killing, etc. in various parts of Delhi. In fact, the anti-social elements had taken the lead. The commission was further of the opinion that in spite of vast publicity, many persons have not come forward to depose about the actual happening between 1st and 7th November, 1984. The Commission recommended new committee be appointed to go through the individual cases of omission of non-registration of cases by the local police.

(12) Pursuant to the report of the Justice Ranganath Misra Commission, Delhi Administration by notification of February 21, 1987 constituted a Committee comprising of M. L. Jain. former Judge of this court and Shri A. K. Banerjee, a retired officer of the Indian Police Service to examine inter alia, whether there were cases of omission to register or properly investigate offences committed in Delhi during the period of riots from October 31 to November 7, 1984, and to recommend the registration of cases where necessary, monitor the conduct of

investigation and follow-up of cases already registered, suggest effect steps, including fresh and further investigations, etc. The said committed considered the affidavit of Shrimati Anwar Kaur and was prima facie of the opinion that the affidavit disclosed the Commission of offences punishable under sections 143, 147, 148, 149, 302, 436, 435, 455, 201, and 211 of the Indian Penal Code. The Committee consequently by letter dated 14-10-1987, wrote to the Delhi Administration proposing that the Fir in this regard maybe registered and investigated in accordance with law.

(13) That pursuant to the recommendation of the Jain-Banerjee Committee, a co-accused of the petitioner namely Shri B. N. Gupta filed a writ petition being Cwp no. 3327/87. While issuing notice, the court restrained the registration of cases upon the direction of the Jain-Banerjee Committee. After hearing the parties at length. This court vide judgment and order dated October 4, 1989 allowed the writ petition.

(14) On March 22, 1990, the Delhi Administration appointed another Committee comprising Mr. Justice P. S. Poti, former Chief Justice of Gujarat High Court and Shri P. A. Rosha, a retired officer of the Delhi Police service for the same purpose. This Committee on August 8, 1990, recommended to the Administrator, Union Territory of Delhi that a case be registered and investigated by the Cbi in relation to the omission to register a case and to investigate the offences alleged to have been committed in the affidavit of Smt. Anwar Kaur. The Administrator after due consideration accepted the recommendation and directed the Cbi vide his letter dated 5-9-90, to take further action in accordance with law. Upon the receipt of the said letter, the Cbi on September 7, 1990, registered the Fir in question against 6 accused persons, including the petitioner. Immediately thereafter, the respondent-CBI recorded the statements of three so-called eye-witnesses of the occurrence and on 11th September, 1990, organized a raiding party to search the house of the petitioner and arrest him.

(15) In this background, let us examine the contentions of the learned Additional Solicitor General appearing for the respondent CBI.

(16) The detailed narration of facts' has been given with a view to how that even though the killing of Navin Singh the husband of Anwar Kaur had taken place on 1-11-84, she did not make any report to the police. Her affidavit dated 15-7-87 saw the light of the day for the first time, when it was placed before the Jain-Banerjee Committee, which was appointed on 21-2-87. Before that, she had an ample opportunity to approach not only the police station Sultan Puri for registration of the case involving the petitioner, as is now sought to be made out, but also making a grievance before Ranganath Misra Commission that in spite of her complaint, the local police has not registered the case. Instead on 17-12-84, she had approached the Sho of the police station and moved an application only for the grant of compensation for the loss which she had suffered due to the burning of her house.

(17) Thereafter, very respectable, responsible and public Spirited members of the Pucl and Citizens Justice Committee, including Mr. Justice S. M. Sikri, a retired Chief Justice of the Supreme Court, Mr. V. M. Tarkunde. a former Judge of the Bombay High Court, Mi. Soli J. Sorabji, Sr. Advocate, Air Chief Martial Arjun Singh (Retd.), now the Lt. Governor of Delhi and Lt. Gen. J. S. Arora (Retd.) and many others, had gone to the area and other places, where the affected persons have been settled to get hold of their affidavits in regard to the incidents of rioting which took place in the first week of November, 1984. At that point of time Anwar Kaur was admittedly living in the camp. Even though the statements of neighbours of Anwar Kaur, namely, Dhoan Kaur resident of A-4175, Sultanpuri, Padmini Kaur, A-41164, Ram Kaur of A-41162, and Sumer Singh resident of A-4/129, were recorded but she did not come forward to make any statement. For this lapse, there is no Explanationn.

(18) At this stage, we may minutely examine the affidavit of Anwar Kaur. Only paras 2 and 3 are relevant for our purpose. In para 2 she states:

'That on 1-11-84, a mob led by Sajjan Kumar, Member of Parliament, Nathu Pradhan, Gupta of oil depot, Udal, Sis Ram Halwai, proceeded towards our house and instigated killing beating and burning Sikhs and sikh houses. My husband was dragged out and pierced a sharp edged weapon into his stomach and burnt him

after pouring kerosene and petrol on him. Our house too was burnt.'

In para 3, her allegation, is:-

'I fully know Nuthu Pradhan, Jai Bhagwan Gupta, Peerea, Rajinder and Hanuman being known figures of the locality who led the mob which committed violence murdered my husband and set my house on fire.'

(19) Prima facie, Anwar Kaur blames the other co-accused for dragging her husband from the house and killing him.

(20) That apart, the fact remains that since the date of the incident i.e. 1-11-84. Smt. Anwar Kaur did not make any complaint before the police or before the Ranganath Misra Commission, against the petitioner responsible for the killing of her husband. Even her immediate neighbours who claim to be, the eye-witnesses of the killing on 1st Nov., 1984, in the area of Sultanpuri, and whose statements were recorded at the earliest point of time, did not name the petitioner responsible for holding any meeting or instigating them to kill or burn the houses of Sardars. He was not an unknown person of the area. Witnesses could not have omitted his name, if in fact he was there. Most probably, at that point of time, he being the General Secretary of DPCC(1) was busy in making arrangements for the funeral of Mrs Indira Gandhi.

(21) The supplementary statement of Anwar Kaur admittedly has not been recorded before any commission or by a police officer or by a person under the authority of the commission. This statement does not bear her signature or thumb mark. It has an endorsement of one Shri Atma Singh in whose presence the said statement of Anwar Kaur was recorded. We do not know nor it has been made clear by the Cbi as to who, when, where and whether in fact this supplementary statement was ever recorded. Whatever may be the Explanation in my opinion, the delay of 3 years in the filing of the affidavit and the recording of her statement at least is a circumstance for which the benefit must go to the petitioner for the confirmation of his anticipatory bail.

(22) The apprehension of the respondent-CBI that the petitioner being an influential person will cause hindrance in the investigation of the case are totally misplaced. No doubt the petitioner was the Member of the Lok Sabha on the date of the alleged incident and has a following. He is residing in this area for the past many years. He certainly has a standing in the society and commands respect, love and affection of the people of his constituency. His social background is such that there is neither any possibility nor has he betrayed the trust placed in him by the court, in avoiding to join the investigation or interfered in the due administration of justice. There is no allegation whatsoever that the petitioner or any of his relations or a close friend has ever approached or threatened Anwar Kaur or any of the witnesses to restrain them from making any statement.

(23) The incident of 11-9-90 is the creation of the officers of the Cbi themselves. They had gone to search and arrest the petitioner early in the morning without informing the local police, who were in a position to give them the required protection in case of any need. They had an ample opportunity to straightway arrest the petitioner and bring him to the police station. This was not done. In the meantime, well wishers of the petitioner started collecting at his house, in the normal course as he used to receive the persons of his constituency from 7 A.M. onwards. Seeing the presence of the Cbi in the house of the petitioner, they became inquisitive and wanted to know the reasons of their presence. When they did not get any valid reasons, from any quarter, they became restive. It is not the case of the respondent that at any point of time, the petitioner came out of his house, addressed the crowd or instigated them against the officers of the CBI. Rather, it was only on the request of the petitioner that the person? collected outside his house, allowed the officers of the Cbi to leave the house.

(24) At this stage, we may note that immediately thereafter the officers of the Cbi filed two FIRs at the local police station. In none of these two FIRs, the petitioner is accused of organizing the mob or making any inflammatory slogans or instigated the crowd to take revenge against the CBI. Under these circumstances, the petitioner cannot be blamed or held capable of organizing huge rallies likely to cause alarm or fear in the mind of the public and more particularly, the witnesses as suggested by the CBI.

(25) As regards the recovery of the six swords, from the house of the petitioner, the respondent intentionally did not take them, to avoid any confrontation with the mob. It is stated at the bar that the said six swords have since been handed over to the officers of the CBI. It is not the case of the respondent Cbi that any of the swords was allegedly used in the commission of the crime by the petitioner. These swords appeared to have been presented to the petitioner as Saropas by the Sikh community in recognition of his services for organising blood donation and rehabilitation camps for the victims of 1984 riots. It is only for that reason that the respondents have not so far registered any case against the petitioner for the illegal custody of the swords.

(26) The Cbi raised a lot of hue and cry for the recovery of certain documents alleged to have been found from the house of the petitioner. Those are the affidavit of Anwar Kaur, her supplementary statement and the copies of the FIRs registered at various police stations on 1-12-84. Those documents in fact formed part of the file of the writ petition in Gupta's case. These very documents were the basis of the challenge in the writ petition. Its copies were duly supplied by the State to the counsel for the parties. These are not the original documents but are the photo copies which could in the normal course be in possession of the petitioner, as he is also concerned with that case. These are not the secret or official documents as claimed by the learned counsel for the Cbi and as such no adverse inference can be drawn against the petitioner.

(27) It is not disputed that on the recommendations of the Poti-Rosha Committee, 9 cases against different persons were registered with the Crime Branch under various sections of the Indian Penal Code on 5-9-90. Shri Tiwari, Dcp was made in charge of the investigation. Out of them, the case against the petitioner and 5 others was directed to be entrusted and investigated by the CBI. We do not know what prevailed with the Administration to treat this case differently from the other accused or give it a special importance. The Cbi registered the case on 7-9-90 against Sajjan Kumar and 5 others. On 11-9-90, the officers of the Cbi were able to apprehend the remaining 5 coaccused whereas Sajjan Kumar was released on anticipatory bail. The other 5 accused are Nathu Ram, Shishu Ram, Brahma Nand, Hanuman Prasad and Priya Ram. All of them moved applications

u/s 439 of the Code of Criminal Procedure for their release on bail. The respondents Cbi contested the applications and opposed the grant of bail on almost on similar grounds which are being pressed in this case. By order dated 22-9-90. Shri S. S. Bal, A.S.J, New Delhi, allowed the application and all the co-accused were directed to be released on bail on their executing a personal bond in the sum of Rs. 20,000 with one surety in the like amount subject to the condition that none of them will try to intimidate and win over the prosecution witnesses and will not interfere in any way in the course of investigation. The allegations that an attempt has been made by the applicants to win over one of the witnesses by offering him money of his choice was also considered and brushed aside.

(28) Against this order of bail, admittedly, the Cbi has not filed an appeal or revision for the cancellation of the bail order. The present petitioner is similarly situated as those of his coaccused. Rather, the role assigned to his co-accused is more serious than the one to the petitioner. This is also one of the grounds which weighs in favor of the petitioner for the confirmation of his anticipatory bail.

(29) Learned counsel for the Cbi then contended that this court has granted the petitioner a blanket order of bail which is not in accordance with law and as such is liable to be reviewed. His submission is that in the application the petitioner has not mentioned the sections under which he is required to be arrested nor has he mentioned the name of the police station. The blanker order of anticipatory bail thus is bound to cause serious interference with the right and duty of the police, to arrest the applicant even if he commits another offence.

(30) The argument has only to be mentioned and rejected summarily. It is not disputed that an order of bail can be passed u/s 438 Criminal Procedure Code . without notice to the public prosecutor which has been done in this case. Notice was issued to the respondent-CBI forthwith and the question of bail is now being re-examined in the light of the respective contentions of the parties. In this case, the Administrator, Union Territory of Delhi, after due consideration and accepting the recommendation of the Pot'-Roshia Committee, directed the Cbi to take further action vide D.O. of September 5, 1990. Upon the receipt of the letter from Delhi Administration, the Cbi registered the Fir against 6 accused persons, including the

petitioner on 7-9-90. The investigating officer then recorded the statement of witnesses on 8-9-90 and immediately thereafter on 11-9-90, set out to arrest the accused persons. The petitioner came to know of the registration of the case by the Cbi, only when its office's reached his house early in the morning for conducting the search and his arrest. There was hardly any time with the petitioner to make enquiries about the number of the Fir and the sections under which he was required to be arrested. The Cbi Officers present in his house would not disclose this relevant and material information, It was under these circumstances that the present application was drafted. Even then in para no. 17 of the application, a clear indication was given that the applicant has now come to know through newspaper reports that the newly-appointed committee has recommended the registration of the case against him, on the strength of the old affidavit of Smt. Anwar Kaur, and this precisely is the basis of the registration of the present case. In fact, in no other criminal case he is involved or his presence is required. Under these circumstances, the order of this court releasing him on anticipatory bail cannot be termed as a blanket order of bail.

(31) Before parting with this case, we may note that the basic rule for an applicant who seeks his enlargement on bail from the court may be tersely put as bail, not jail, except where there are circumstances suggestive of the applicant fleeing from Justice or throttling the course of justice or creating other trouble in the shape of repeating offences or intimidating witnesses and the like. Learned counsel for the petitioner S/shri Bawa Gurcharan Singh, B. R. Handa and I. U. Khan strongly contended that none of these exceptions are applicable to the petitioner. I entirely agree with their submissions. On facts, the petitioner has not been proved to have committed any act, which may disentitle him the exercise of discretion in his favor. These exceptions as stated earlier are not applicable to the petitioner.

(32) The considerations which weigh with the Courts while granting bail either under Section 438 or Section 439 Criminal Procedure Code . are :-

(1) The nature and gravity of the circumstances in which the offence is committed;
(2) The position and the status of the accused with reference to the victim and the witnesses.- (3) The likelihood of the accused fleeing from justice; (4) Of repeating

the offence; (5) Of jeopardising his own life being faced with a grim prospect of possible conviction in the case; (6) Of tampering with witnesses; (7) The history of the case as well as of his investigation; and (8) Other relevant grounds which may apply to the facts and circumstances of a particular case.

In this case, all these factors were carefully taken into consideration when the petitioner was initially granted anticipatory bail and are being kept in view while disposing of the present petition. It is now well settled by a catena of judgments of the Supreme Court that this power is not to be exercised as if a punishment before trial is being imposed. The only material considerations in such a situation are whether the accused would be readily available for his trial and whether he is likely to abuse the discretion granted in his favor by tampering with the evidence. As observed earlier, there is no material on record to suggest that the petitioner who has a status in the society, and enjoys good reputation, love and affection from the persons at large, is likely to repeat the offence, abuse the trust placed in him by the court, or avoid the trial.

(33) After a lapse of 6 long years of the incident, the petitioner cannot be allowed to be detained, particularly when there is no averment that a weapon of offence with which the petitioner is alleged to have caused any injury to the deceased is yet to be recovered. For mere interrogation, in my opinion, the arrest of the petitioner is not at all necessary. Even otherwise, the CBI does not appear to be serious in interrogating the petitioner. On 27-9-90, when the case was taken up, learned counsel for the respondent frankly conceded that from the day when the petitioner was granted anticipatory bail, he has not been summoned for interrogation. It was only thereafter that the petitioner was summoned once on 28-9-90, and thereafter no attempt has been made to further interrogate him.

(34) Under these circumstances, the order dated 11th September, 1990 granting anticipatory bail to the petitioner is hereby made absolute. The petitioner shall join the investigation, as and when called upon by the Investigating Officer on a written requisition. He shall not in any manner cause hindrance in the investigation or exercise any undue influence on any witness from making a statement against him.

(35) Following the law laid down in Nandini Satpathi's case. : 1978 CriLJ968 (1), the petitioner is hereby allowed to be accompanied by his counsel and have him by his side during the course of his interrogation.

(36) Any observation made in this order will have no bearing on the merits of the case.

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