

Shankar Vs. State

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Court : Delhi

Decided On : Apr-22-1993

Reported in : 1993(26)DRJ151

Judge : Sat Pal, J.

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

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2850 of 1992

Appellant : Shankar

Respondent : State

Advocate for Pet/Ap. : Urmila Khanna,; amices Curiae and; Meera Bhatia, Advs

Judgement :

Sat Pal, J.

(1) This is a petition under section 439 of the Criminal Procedure Code for release of the petitioner on bail.

(2) Briefly stated the facts of the case are that one Ram Piari was found murdered on the night of 26/27.1.1989 but there was no eyewitness to the said murder. The mother of the deceased, who lives in Darbanga, sent a letter dated 12th April,

1989 to the police wherein it was alleged that Smt. Ram Piari had been murdered by her husband Ram Lalla. Pursuant to the said complaint Ram Lalla was arrested on 16th April, 1989. A disclosure statement of Ram Lalla was recorded on 16th April, 1989 wherein he stated that he and one Umesh had inflicted knife injuries on Ram Piari and accused Shankar (petitioner herein) kept standing at a distance along with the son of the deceased. Thereafter, the petitioner was arrested on 19th April, 1989 and his disclosure statement was recorded on the same date. In his disclosure statement the petitioner stated that accused Ram Lalla had taken his son and kept standing at a distance when the knife injuries were inflicted on the deceased by him and Umesh. Thereafter, another disclosure statement of accused Ram Lalla was recorded on 19th April, 1989 wherein he stated that accused Umesh and Shankar (petitioner) had inflicted knife injuries on the deceased whereas he along with his son kept standing at a distance. It may be pointed out here that one knife of 8.3 cms. length including the blade was found at the spot where the dead body of the deceased was lying and another knife of 21 cms. length is alleged to have been recovered at the instance of the petitioner.

(3) Ms. Urmila Khanna, advocate, learned amicus curiae appearing on behalf of the petitioner, submitted that the main accused Ram Lalla, who in his first disclosure statement had stated that the knife injuries had been inflicted on the deceased by him and accused Umesh, has already been granted bail by this court vide order dated 27th February, 1992 passed in Cr.M(M)2055 of 1991. She further drew my attention to the statement of Public Witness 10, Dr. L.T. Ramani, who conducted postmortem on the dead body. Dr. Ramani has stated that in his opinion the injuries were not possible with the knife with blade of 9.7 cms. and total length of which is 21 cms. Learned counsel for the petitioner, therefore, contended that the injuries were not inflicted by the petitioner and as such the petitioner should be released on bail.

(4) Ms. Meera Bhatia, learned counsel for the State, has submitted that in the present case a large number of witnesses have already been examined and as such the petitioner should not be granted bail at this stage.

(5) I have given my though full consideration and have also perused the lower court records. Keeping in view the totality of the circumstances and particularly the fact that the co-accused Ram Lalla has already been released on bail, I am of the view that the petitioner is also entitled to bail.

(6) Accordingly, I direct that the petitioner be released on bail on his furnishing a bail bond in the sum of Rs.10,000.00 with one surety in the like amount to the satisfaction of the trial court.

(7) The observations made hereinabove will have no bearing on the merits of the case. The trial court records be sent back forthwith. With this order the petition stands disposed of.

(8) The petitioner be informed of this order through Superintendent, Central Jail, Delhi.

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