

Ranjit Singh Vs. State (Central Bureau of Investigation)

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Court : Delhi

Decided On : Jul-30-1993

Reported in : 51(1993)DLT497

Judge : Y.K. Sabharwal and; R.L. Gupta, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Miscellaneous Appeal No. 172 of 1993 and Criminal Appeal No. 74 of 1993

Appellant : Ranjit Singh

Respondent : State (Central Bureau of Investigation)

Advocate for Pet/Ap. : A.P.S. Randhawa,; Satnam Singh,; Dhanbir Singh,;

Judgement :

Y.K. Sabharwal, J.

(1) Baba Gurbachan Singh, head of Nirankari Mission and esteemed as Guru of Nirankaris and his bodyguard Pratap Singh were shot dead on 24th April 1980 in the Nirankari Bhawan Complex. The appellant was arrested on 23rd November 1983 and is in custody s.ince then. After protracted trial which was held in the precinc's of Central Jail, Sh. R. P. Gupta, learned Additional Sessions Judge by judgment dated 26m March, 1993 held as proved against appellant Ranjit Singh

the following charges :

1. Conspiracy to kill Gurbachan Singh punishable under Section 120B, Indian Penal Code .
2. Murder of Baba Gurbachan Singh in pursuance of the conspiracy punishable under Section 302 read with Section 120B, Indian Penal Code .
3. Murder of Pratap Singh in furtherance of common intention by Ranjit Singh and his companion punishable under Section 302 read with Section 34 Indian Penal Code .
4. Attempt to kill Kuldip Singh Walia punishable under Section 307 Indian Penal Code ;
5. Conspiring to cause explosion by hand grenades to endanger life and property punishable under Section. 4 of the Explosive Substances Act; and
6. Possessing arms and ammunition with intent to use them for unlawful purpose or to enable any other person to use the same for unlawful purpose punishable under Section 27 of the Arms Act, 1959.

(2) By order of sentence dated 27th March, 1992 for the offences at numbers 1, 2 and , above imprisonment for life besides fine has been awarded and for offences at numbers 4, 5 and 6 above rigorous imprisonment for 7 years besides fine has been awarded. The learned Additional Sessions Judge has directed that the life sentence shall have to be fully suffered from the date of conviction. After noticing Abdul Azad Vs . The State , Rajahusein Gulamhusein Lakhari V. The State of Maharashtra, and Kanthalot Karunan & Ors. v. State of Kerala, 2nd 1975 (1) Ker 215 the learned Judge has held that provisions of Section 428 Criminal Procedure Code . regarding set off of period in custody do not apply to the sentence of life imprisonment.

(3) Ranjit Singh by this application prays that pending decision of the appeal the sentence of imprisonment and fine awarded to him be suspended and he be released on bail.

(4) We have heard Mr. Amar Pal Singh Randhawa, learned counsel for the appellant/ convict and Mr. Altaf Ahmed, learned Additional Solicitor General on behalf of the State.

(5) Mr. Randhawa firstly contends that the order of learned Additional Sessions Judge that provisions of Section 428 of the Code regarding set off of the period in custody do not apply to the sentence of life imprisonment and that the life imprisonment shall have to be fully suffered by the convict from the date of conviction runs counter to the law laid down by the Supreme Court in the case of Bhagirath v. Delhi Administration, : 1985 CriLJ1179 . In the said decision it has been held that persons sentenced to imprisonment for life are entitled to set off the period of detention undergone as undertrial prisoner subject to the provisions contained in Section 433A of the Code. By this decision the Constitution Bench of the Supreme Court reversed the contrary view which had been expressed in Kar'ar Singh v. State of Haryana, : 1982 CriLJ1772 . The three cases noticed by learned Additional Sessions Judge in his order for coming to the I conclusion that the provisions of Section 428 of the Code regarding off of the period in custody do not apply to the sentence of life imprisonment, stood overruled by the decision in Bhagirath's case. we feel sad to notice that teamed Judge did not advert his attention to the decision of the Constitution Bench of the Supreme Court. The Supreme Court judgment had been rendered about 7 years before impugned order of sentence was passed. We are unable to understand how the learned Additional Sessions Judge erred On such a and important aspect in the order of sentence. Mr. Altaf Ahmed, conceded that in view of Bhagirath's case the appellant would be entitled to set off the period of detention undergone as undertrial one subject to the provisions contained in Section 433A of the Code and provided that orders are passed by the appropriate authority under Section 432 or 433 of the Code. Mr. Altaf Ahmed, however, strenuously opposed the prayer of the appellant for suspension of sentence and grant of bail pending the disposal of the appeal.

(6) Mr. Randhawa submits that .generally a convict sentenced to undergo life imprisonment has to remain in actual custody for about 13 or 14 years whereas the appellant has already been in jail for more than 9 years and there is hardly any

likelihood of the disposal of the appeal in near future and thus on the ground of delay 'alone the appellant is entitled to be enlarged on bail. Before we deal with this contention we may briefly notice the background of the appellant and the circumstances of the offeree as found in the judgment under appeal.

(7) The appellant was a Carpenter and was a member of Akhara run by Akali factions of the Sikhs who had animus against Nirankaris. Akali Sikhs did not like the growing popularity of Nirankari mission and considered the growth of their ideas as opposed to the tenets of Sikh religion. In 1978 there was violence in Amritsar between Nirankaris and Akali Sikhs led by Jathedar Sant Jarnail Singh Bhinderwale on account of Nirankari Samagam in Amritsar on Baishaki day when many persons were killed on both sides and criminal prosecution was started against a number of Nirankaris including Gurbachan Singh. The prosecution ended in acquittal and some Akali Sikhs felt agitated. Ranjit Singh, appellant, developed an idea in his mind to kill Baba Gurbachan Singh. He planned to enter Nirankari Bhawan under the guise of Nirankari faith. Ranjit Singh approached some Nirankari Mukhi and joined Nirankari Mission by taking 'Gyan' towards the end of January 1980 from. Nirankari Mukhi and started serving as a carpenter in Nirankari Bhawan. Ranjit Singh and his conspirators looked for an opportunity to kill Baba Gurbachan Singh. They prepared a box of wood which would look like a log of wood and not a box so that it could be carried without suspicion., space was left in it to conceal arms such as a carbine and a sword. Baba Gurbachan Singh used to go on Sauagams in the area of Paharganj on Thursdays- On his return to the Bhawan at night he used to meet some of his devotees. Ranjit Singh and his conspirators obtained arms and ammunitions and concealed the same in the said wooden box. Ranjit Singh and his companion, a young boy of about 21 years, went to Nirankari Bhawan to the Carpentry workshop and expressed to his co-workers at the Workshop a desire to finish a particular work at the house of a Nirankari which required finishing. Ranjit Singh obtained a screw driver from a co-worker. He already -had a noose-liar which he had brought with him. Ranjit Singh moved around in the day time in Nirankari Bhawan meeting several people on way and he introduced to all that the young companion was his maternal uncle's son. At about 8.30 P.M. Ranjit Singh and his companion brought the log of wood in Nirankari Bhawan. He had been staying in the guest house of Nirankari Bhawan

earlier whenever he got late with his work in the Bhawan. That night he asked permission from Caretaker to stay in the Bhawan to which no objection was raised by the Caretaker. Baba Gurbachan Singh reached Bhawan from Satsang at Paharganj at about 10.30 P.M. His Sewadar Pratap Singh was in a bother car. Babaji came out of the car and moved towards the front of the car. Pratap Singh moved towards Babaji. Ranjit Singh had stationed himself with his companion in a room of the guest house which faced the residential area of Baba Gurbachan Singh where car was to stop for his alighting. Ranjit Singh and his companion in pursuance of the conspiracy fired shots from Room No. 14 from a concealed position through a window with a .30 carbine. Babaji was hit with one bullet and so was Pratap Singh. They died- K. S. Walia was hit with one missile, perhaps a rebounded bullet piece and was seriously injured. Ranjit Singh and his companion threw two hand grenades from the balcony. One fell in the Sehan near the residence of Babaji and one on the store leading to Room No. 14. Ranjit Singh and his companion escaped by breaking open the back window grill of bathroom of Room No. 14. They, however, left behind the screw driver which they had borrowed from the Carpentry workshop from a co-worker Ajit Singh and also left behind their noosepiar. They could not carry back the box of wood as they had to slide down a rain water pipe which was leading from back window to the gali. A naked sword was left behind in the wooden box- They, however, carried the gun. The circumstances under which Ranjit Singh was detected and arrested on 23rd November, 1983 have also been discussed in the judgment under appeal.

(8) Regarding the ground of delay there are two aspects. One, the lengthy trial and a period of over nine years during which the appellant remained in Jail as an undertrial. Two, the time which may be taken in disposal of the appeal. In respect of first aspect it has to be kept in view that the case of prosecution is one of conspiracy and voluminous evidence was led and more than 350 witnesses were examined during trial. It is well known that the conspiracy cases take long time for investigation and trial. Further, the prosecution was insisting that the proceedings should be conducted in specially protected place, namely. Central Jail, Tihar, as according to it number of people used to throng the court premises whenever the case used to be taken up by the court at its initial stages and there used to be commotion outside the court premises and within, the court premises and that

there was apprehension of danger to the life of the appellant besides other law and order problems. Some time was spent in examining the legality of the Notification providing that the further proceedings in the case will be taken within the precincts of Central Jail. Tihar and not in the open court in normal court building. For the time taken in proceedings initiated by the accused, may be in good faith, to vindicate his rights and interest as received by him, the State cannot be blamed, particularly, when the State action is upheld by courts. The fact however, remains that the time is spent in pursuing such proceeding. For these relays none can be held responsible. As Supreme Court says these are 'systemic delays'. In this case the decision was first challenged, by the appellant by filing a writ petition which was dismissed by this court. Thereafter, Special Leave Petition was filed in the Supreme Court which was also dismissed. The Supreme Court, however, made certain directions in regard to the counsel of appellant's choice being provided to him at State expense. The appellant wanted a particular advocate and the Supreme Court had also directed that the counsel according to the choice of the appellant be provided to him and the said counsel should be paid the same fee as had been fixed for the Special Public Prosecutor appointed in the case. All these matters took considerable time. The decision of these aspects also took considerable time and only thereafter the trial proceeded. We have mentioned aforesaid aspects for the reason that the delay which occurred due to the said aspects cannot be attributed to the State or some other wing of the State. In regard to the right of an accused to speedy trial the Supreme Court in *Abdul Rehman Antulay v. R. S. Nayak and another*, Air 1992 Sc 1701 (b), Realizing the practical problems to the courts has observed that :

'WHILE determining whether undue delay has occurred (resulting in violation of Right to Speedy Trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the work-load of the court concerned, prevailing local conditions and so on-what is called, the systemic delays. It is true that it is the obligation of the State to ensure a speedy trial and State includes judiciary as well, but a realistic and practical approach should be adopted in such matters instead of a pedantic one.'

(9) On second aspect, i.e delay in disposal of appeal, we do appreciate the contention that if disposal of the appeal takes about four years the appellant would have by then completed approximately 14 years in jail and the acceptance of his appeal at that stage would be meaningless as far as the liberty of the appellant is concerned. Mr. Randhawa has placed strong reliance upon decision of the Supreme Court in *Kashmira Singh v. The State of Punjab*, : 1977 CriLJ1746 and contends that in view of the law laid down by the Supreme Court the appellant is entitled to be enlarged on bail. In *Kashmira Singh's* case the Supreme Court has opined that:

'It is, therefore, absolutely essential that the practice which this Court has been following in the past must be reconsidered and so long as this Court is not in a position to hear the appeal of an accused within a reasonable period ' of time, the Court should ordinarily, unless there are cogent grounds for acting otherwise, release the accused on bail in cases where special leave has been granted to the accused to appeal against his conviction and sentence.'

(10) While considering prayer of bail of a convict on the ground that disposal of appeal will take long time, the facts and circumstances of each case have to be seen as is evident from the qualifying ' words 'unless there are cogent grounds for acting otherwise' used by Supreme Court in *Kashmira Singh's* case. Further, the Supreme Court had found that the appellant had a prima facie good case to consider as is evident from the observations that :

'THE very fact that this court has granted to the appellant: Special Leave to Appeal against his conviction Shows that, in the opinion of this court, he has prima facie good case to consider and in the circumstances it would be highly unjust to detain him in jail any longer during the hearing of the appeal.'

(11) It is no doubt true that an accused has a right to be tried speedily which would include speedy disposal of appeal as well but while considering these aspects regard has to be had to various circumstances including the nature or offence, number of accused and witnesses and the work load of the court concerned. Turning to the present case. as noticed hereinbefore, the appellant could be arrested only after about three and a half years of the date of the

occurrence; considerable time was spent for determination of the legality of the Notification to hold trial in a special court room made in Tihar jail and voluminous evidence was adduced during the trial. We also cannot overlook the fact that the counsel for the appellant had his other professional commitments and he had expressed his difficulty in being present in the case during trial for three or even two days in a week commencing from 11.30 A.M. The appellant cannot be absolved of delay in the trial as part of it is attributable to his counsel, may be, on account of other professional commitments of the counsel.

(12) On merits, counsel for the appellant contends that it is a case of circumstantial evidence of doubtful veracity and though the Fir was recorded within about two hours of the occurrence yet the accused are not named in Fir nor circumstances have been mentioned nor even the number of the assailants and the witness on whose testimony strong reliance was placed for convicting the accused was one whose statement was recorded by Police after one week. Mr. Randhawa contends that the appellant is holding the responsible position as President of Akal Takht and is in custody for more than nine years and he would have no difficulty in suffering the balance period of detention in case his appeal is dismissed.

(13) On the other hand, learned counsel turn the State submits that the appellant is guilty of committing heinous crime of murder of Head of a religious sect with large following within and outside India, there is overwhelming evidence against the appellant and submits that the appellant could be arrested only after more than three and a half years after the date of the occurrence since he has been absconding. It is also submitted that in the application the appellant says he is Jathedar of Akal Takht and the genuine apprehension of State is that it would be very difficult to procure the appellant in case he is released on bail. Counsel contends that no conditions. would be effective to secure the production of the appellant and release may also pose law and order problems,

(14) We would not like to comment upon the merits the evidence produced on record lest it may prejudice the case of the either parties. Regarding delay during trial, we have already noticed the facts hereinbefore but regardless of that the

appellant would be entitled to set off the period spent in jail as an undertrial under Section 428 of the Code but at the same time we cannot overlook the difficulties but forth by learned Additional Solicitor General that are likely to arise in case the appellant is released' on bail and the difficulties in securing the production of the appellant in the event of dismissal of appeal.

(15) Having given our utmost consideration, we are of the opinion that in the totality of the circumstances it is not a fit case for directing release of appellant en bail but at the same time it is a fit case for expeditious disposal of the appeal. Accordingly, while dismissing the application we would direct the Registry to take immediate steps for preparation of the paper book of the case. We direct the Registry to prepare the paper book within a period of three months and soon thereafter the appeal shall be listed for directions for fixing a date of hearing. The application is disposed of accordingly.

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