

Subhash Kamboj and anr. Vs. the State and anr.

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SooperKanoon Citation : sooperkanoon.com/694216

Court : Delhi

Decided On : Dec-02-1991

Reported in : 1992(22)DRJ178

Judge : Malik Sharief-Ud-Din, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 395

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 668 of 1988

Appellant : Subhash Kamboj and anr.

Respondent : The State and anr.

Advocate for Pet/Ap. : D.C. Mathur and; Arjun Bhandari, Advs

Judgement :

Malik Sharief-Ud-Din, J.

(1) This is a reference made by the Learned Single Judge of this court, as according to the Learned Single Judge, there was a judicial conflict regarding the question that arises in the bail petition. The issue for reference has not been specifically framed. But as we noticed from the facts of this case, the question that needs to be answered is whether this Court has the power to grant anticipatory bail in respect of the petitioner who is living within the jurisdiction of this court and apprehends arrest even though the case against the petitioner has been

registered at Mussoorie, falling within the jurisdiction of Allahabad High Court.

(2) Mr. Mathur has invited our attention to Captain Satish Chander Sharma v. Delhi Administration and others. CrI.W.No-265/90. decided on 11.9.1990, by a Division Bench of this Court in which a similar question arose and the Court held that this court has the power to grant anticipatory bail in respect of the petitioner who is residing within the jurisdiction of this court and is apprehending arrest even though the case has been registered against him beyond the jurisdiction of this court.

(3) We may note that the learned Division Bench held that Section 438(1) of the Code of Criminal Procedure is wide enough to confer jurisdiction not only to the High Court or the court of Sessions, within whose territorial jurisdiction the offence has been committed and is to be enquired into and tried, but also the High Court or the Court of Sessions, where a person has reason to believe that he may be arrested in connection with commission of a non-bailable offence. The bench further held that by taking away the jurisdiction from the High Court or the Court of Sessions, for the grant of anticipatory bail within the territorial jurisdiction in respect of a person who may be arrested in connection with a non-bailable offence would be reading certain words in the Section which are not to be found therein. The bench, therefore, held that no restriction whatsoever has been placed for exercise of power by the High Court or the Court of Sessions for the grant of anticipatory bail within whose territorial jurisdiction a person has reason to believe that he may be arrested in connection with the non-bailable offence. We have gone through the Judgment (supra) and we are in agreement with the reasoning advanced therein. For the same and similar reasons, we answer the reference in affirmative and hold that this court has the jurisdiction to grant anticipatory bail in respect of a petitioner residing within its jurisdiction and apprehending arrest for a non-bailable offence even though the case against him may have been registered outside the jurisdiction of this court. The reference is answered accordingly but since the petitioners in the case have already been granted anticipatory bail by the Learned Single Judge, who made the reference, there is no necessity for us to remit the matter to the Learned Single Judge. The matter is disposed of.