

Jagdish Kumar Vs. State

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Court : Delhi

Decided On : Jan-14-1994

Reported in : 1994IAD(Delhi)310; 53(1994)DLT242; 1994(29)DRJ144

Judge : V.B. Bansal, J.

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

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2808 of 1993

Appellant : Jagdish Kumar

Respondent : State

Advocate for Pet/Ap. : R.K. Kapur and; R.D. Jolly, Advs

Judgement :

V.B. Bansal, J.

(1) Jagdish Kumar has moved this application for bail for offence under Section 302/307/323/452/506 read with Section 34 Ipc, in Fir No.301 /93, Police Station Ambedkar Nagar. This application relates to an incident which took place on 4.8.93 at about 10.30 pm. in which injuries were sustained by Nirrnal, resulting in his death on 5.8.93. Injuries were also inflicted on Surinder Kumar and Smt.Suman.

(2) First Information Report was recorded on 5.8.93 at 1.30 am. on the basis of the statement of Munish Kumar. It was inter alias stated by him that he was residing with his family in house No.4-458, Gali No.7, Sangam Vihar, New Delhi, and during day time an altercation took place between his wife, Sudha, and tenant, Smt.Rani Devi, when Rani Devi had given threat to his wife that she would be dealt with during night and at about 9.00 pm. he came back from his house and was lying on the cot when brother of Rani Devi Along with four persons, viz. Davender, who was armed with Sariya; Pradeep and Mukesh, who were armed with lathis; and Jagdish, came and immediately started giving beatings to Surinder Kumar and Nirmal. He went on to state that Pradeep and Jagdish entered the room and secured Ram Avtaar to whom lathi blow was inflicted by Pradeep while lathi blow was given on the face of Mukesh and they all ran away. It was also stated by him that Rakesh and Dayanand @ Bittu came and gave beatings to his mother-in-law Smt.Suman. It was also claimed by him that Davender and his companion entered his house with intent to kill and gave beatings.

(3) Supplementary statement of Munish Kumar was recorded on 5.8.93 in which it was also stated by him that Jagdish had given and leg fist blows to Nirmal and Surinder and that after the running away of the four persons, Rakesh and Dayanand came upstairs empty handed and while saying that the person be killed, they gave fist and leg blows to Nirmal and Surinder and that when alarm was raised by his,mother-in-law Suman they gave leg and fist blows to her also. Statements of other witnesses have also been recorded who have claimed with regard to giving of fist blows by the petitioner and also by Rakesh and Dayanand, as stated by Munish Kumar in the supplementary statement.

(4) Learned counsel for the petitioner has submitted that the petitioner had no enmity with the deceased and was unarmed. He has further submitted that in the statement of Munish Kumar, which forms the basis of the Fir, no role has been assigned to the petitioner and it is only at a later stage that improvement has been made by him in his supplementary statement and that on this account the petitioner has been involved by the other witnesses. He has further submitted that , the petitioner could have no common intention with the others for the murder of Nirmal. He has also submitted and Rakesh and Dayanand have already been

released on bail and their role is similar to that of the petitioner. A prayer has, therefore, been made that the petitioner may be released on bail.

(5) Application has been opposed by the learned counsel for the respondent. He has submitted that the very fact that the petitioner came Along with Dayanand, Mukesh and Pradeep clearly indicates that shared the common intention and since Nirmal has died because of the injuries inflicted in the incident, the petitioner does not deserved to be released on bail.

(6) The factum of Rakesh and Dayanand having already been released on bail is not disputed. As per the prosecution story, they had also given fist and leg blows to Nirmal and Surinder. In the Fir there is no mention about the inflicting of injuries to anyone by the petitioner. Without expressing any opinion on the merits, but considering the totality of the circumstances I feel that a case has been made out for the release of the petitioner on bail.

(7) As a result, the petitioner is ordered to be released on bail, subject to his furnishing personal bond in the sum of Rs.15,000.00 with one surety in the like amount to the satisfaction of the concerned Court.

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