

Naresh Sharma Vs. State

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Court : Delhi

Decided On : Feb-28-2000

Reported in : 2000IIIAD(Delhi)456; 2000CriLJ4874; 84(2000)DLT657; 2000(53)DRJ733

Judge : Cyriac Joseph, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; [Indian Penal Code \(IPC\), 1860](#) - Sections 120-B, 409 and 420; Prize Chits & [Money Circulation Scheme \(Banning Act\) 1978](#) - Sections 3, 4 and 5

Appeal No. : Crl. M. (M). No. 2984/1999

Appellant : Naresh Sharma

Respondent : State

Advocate for Def. : Mr. C.S. Vaidyanathan, Sr. Adv. and ; Mr. K.K. Sareen, Adv.

Advocate for Pet/Ap. : Mr. Rakesh Tikku, Adv

Judgement :

ORDER

Cyriac Joseph, J.

1. This petition has been filed under Section 439 of the Criminal Procedure Code for grant of bail to the petitioner Mr. Naresh Sharma who is accused to have committed offences under Sections 120B/420/409 of the Indian Penal Code and Sections 3, 4 and 5 of the Prize Chits and Money Circulation Scheme, (Banning) Act, 1978. Even though the petitioner's name was not mentioned in the FIR No. 219/99 registered at Chittranjan Park Police Station, he is one of the accused persons sent up for trial as per the charge sheet filed in the Court on 20.9.1999. The other accused persons sent up for trial are Lambert Kroeger, Dalip Arora, Ashok Chatterjee and M/s. Maple Leaf Trading International (P) Ltd. Though the petitioner was granted interim bail by the learned Metropolitan Magistrate on the ground of illness of his wife, his application for regular bail was rejected by the learned Metropolitan Magistrate. His application for bail was rejected by the learned Additional Sessions Judge also.

2. Learned counsel for the petitioner contended that a mere perusal of the charge sheet would disclose that no offence under Section 409 or 120B of the Indian Penal Code was made out against the petitioner. He also contended that there is no prima facie case against the petitioner under Section 420 of the IPC or under Section 3, 4 and 5 of the Prize Chits and Money Circulation Scheme (Banning) Act. The main argument of the learned counsel for the petitioner is that the petitioner had no role in register-ing the company by name M/s. Maple Leaf Trading International (P) Ltd. or in conceiving and formulating the Multi-Level Gold Marketing Programme of the company and that the petitioner was only one of the persons who became members (business partners) by investing their own money and worked for enrolling new business partners and obtained commission for their work as per the contract with the company.

3. Even according to the respondent the petitioner was only one of the Academic Instructors who induced several persons to join the scheme as business partners and to invest their money in Maple Leaf Gold Trading Scheme. It is alleged that in the said process the petitioner earned lakhs of rupees as commission. The petitioner was arrested on 10.7.1999 and since then he has been in judicial custody except for the period when he was released on interim bail. There is no allegation that he misused the interim bail. The investigation had been completed

and charge sheet was filed in Court on 20.9.1999. In the nature and circumstances of this case, I do not find any reason for a reasonable apprehension that the petitioner will flee from justice or tamper with evidence if he is released on bail. Learned counsel for the respondent submitted that the petitioner's sister Mrs. Nalini Mishra is also one of the accused persons and that she is absconding and evading arrest. However, learned counsel for the petitioner pointed out that the name of Mrs. Nalini Mishra is not shown in column No. 2 of the charge sheet. He also submitted that Mrs. Nalini Mishra also was only a Academic Instructor like the petitioner. He further submitted that the fact that Mrs. Nalini Mishra is absconding cannot be a valid ground for detaining the petitioner in person indefinitely. Having regard to the facts and circumstances of this case, I am also of the view that the fact that Mrs. Nalini Mishra is absconding and evading arrest is not sufficient justification for denying bail to the petitioner. Considering the nature of the offences alleged against the petitioner and the entire facts and circumstances of this case in the light of the legal position stated by the Supreme Court in *The State Vs . Captain Jagjit Singh* : [1962]3SCR622 , *Gurcharan Singh & Others v. State* reported in AIR 1978 SC 179, *Gudikanti Narasimhulu & Others Vs . Public Prosecutor* : 1978 CriLJ502 , *Miss Harsh Sawhney Vs . Union Territory*, : 1978 CriLJ774 , *Mohan Singh Vs . Union Territory, Chandigarh* : 1978 CriLJ844 and *Gurbaksh Singh Sibbia Etc. Vs . The State of Punjab* : 1980 CriLJ1125 , I am of the view that the petitioner is entitled to be released on bail.

4. It may also be mentioned that by the detailed order passed by me today in Crl. M(M.) 2684/99 the main accused in the case *Shri Lambert Kroeger* has been granted bail. I do not find any reason to refuse bail to the petitioner at this stage.

5. Hence it is directed that the petitioner shall be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with 2 local sorties in the like amount to the satisfaction of the learned Additional Chief Metropolitan Magistrate. During the period of trial of the case the petitioner shall not leave the limits of NCT of Delhi without the prior permission of the trial court. If the passport, if any, of the petitioner is not already with the respondent the same shall be surrendered to the respondent or to the trial court before being released on bail. The pass-port shall remain with the respondent/trial court till the conclusion of the trial, unless

otherwise directed by the trial court. The petitioner shall report to the Station House Officer, Police Station Chittranjan Park, New Delhi on the first day of every month at 11.00 A.M.

6. The petition stands disposed of in the above terms.

Let a copy of this order be given Dasti.

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