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**Hari Singh Vs. the State of Delhi**

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**SooperKanoon Citation** : sooperkanoon.com/702280

**Court** : Delhi

**Decided On :** Jul-23-2003

**Reported in** : 2003VIIIAD(Delhi)538; 2003(71)DRJ545; 2004(1)JCC12

**Judge** : S.K. Agarwal, J.

**Acts** : Code of Criminal Procedure (CrPC) - Sections 438; Indian Penal Code (IPC) - Sections 420, 466, 468 and 471

**Appeal No.** : Crl. M. (M). No. 2300/2003

**Appellant** : Hari Singh

**Respondent** : The State of Delhi

**Advocate for Def.** : Anil Soni and ; Pawan Sharma, Advs.

**Advocate for Pet/Ap.** : I.U. Khan Adv

**Disposition** : Appeal dismissed

**Judgement** :

**S.K. Agarwal, J.**

1. This is a third petition u/s 438 Cr. P. C. for grant of anticipatory bail in case FIR No.428/2001 u/Ss. 420/466/468/471 IPC, P.S. P.S. Darya Ganj.

2. The petitioner's first application for grant of anticipatory bail in this Court, Crl.M(M)No.3571/03 was dismissed vide order dated 11.10.2003 by Hon'ble Mr. Justice O.P.Dwivedi, holding as under:

'Petitioner is alleged to have misused forged order purporting to have been passed by Mr. Justice J.D. Kapoor, during the investigation, petitioner has handed over a copy of said order to the Police. Obviously, it is to be ascertained during the investigations from which source to procured the forged order. This will required, custodial investigation.'

3. Thereafter petitioner moved second application for grant of anticipatory bail, being Crl.M.(M).No.748/2003, which came to be dismissed on 20.5.2003 on the ground that his earlier application for same relief had already been dismissed. The petitioner has not yet surrendered. Petitioner's case is that earlier full facts could not be brought to the notice of this Court.

4. Learned counsel for the petitioner argued that the co-accused in the case, Ruchika Sharma and Abhishek Aggarwal have already been granted bail. Referring to order dated 9.11.2002 granting them bail, it is argued that Investigating Officer made a statement that their custodial interrogation was not required. They were granted anticipatory bail. It is argued that petitioner is also entitled for anticipatory on the ground of parity. Learned counsel then referring to order dated 11.2.2003 argued that as per prosecution case, petitioner had allegedly used the forged order purporting to have been passed by Hon'ble Mr. Justice J.D. Kapoor; during enquiry petitioner handed over a copy of the said order to the Police; the investigating agency has now changed its stand; now the case of the complainant is that the forged order was given by Atul Sharma, (son-in-law), to the complainant and thereforee, the question of petitioner's producing any forged document, before the police could not have arisen. Learned counsel referring to the undated letter (which is at page 41) further argued that this letter was given by Atul Sharma to the Police, prior to his arrest, during enquiry wherein he disowned the existence of any such documents; in support of this plea reliance was also placed to the bail application by Atul Sharma in this Court (page 53). It is thus argued that the discloser statement of the co-accused, Atul Sharma, on the basis

of which custodial interrogations is sought, is meaningless.

5. Learned APP for the State argued to the contrary and referred to the disclosure statement made by Atul sharma, recorded during investigation, wherein he has clearly stated that the forged order in question was procured by him from the petitioner, Hari Singh at Tis Hazari against a payment of Rs. 35,000/-. Learned APP argued that machine on which the forged document was prepared is yet to be ascertained, fake court stamps are yet to be recovered, thereforee, custodial interrogation of the petitioner is required. Learned APP further argued that petitioner was named by the co-accused during investigation and he has been evading his arrest and that he has so far not surrendered despite his earlier two applications having been dismissed.

6. I have considered the rival contentions. There is no dispute that powers of the Court while exercising jurisdiction under Section 438 Cr.P.C. are very wide. The main object of this section is to protect the persons, who under the garb of the criminal prosecution are sought to be harassed with a view to lower their image in the estimation of others. In such cases, the Court is bound to protect such persons and to save their reputation like involvement of distant relations, in almost every matrimonial litigation. But where there are grave allegations connecting the accused with the crime, he is not entitled to the relief of anticipatory bail. In this case as per the allegations the Court order was forged. The investigations reveal that the petitioner was responsible for forging and giving the same to Atul Sharma. Machine on which the Court order was prepared is yet to be located, and the fake court stamps are yet to be recovered. It is yet to be determined whether any other person is also involved in this case.

7. While considering the grant or refusal of anticipatory bail, statement of the co-accused recorded during interrogation by the police can be taken into consideration. Reference in this regard may be made to the Supreme Court decision in Muraleedharan vs. State of Kerala 2001 (3) AD (Cri.) SC 29.

8. For the foregoing reasons, looking into the nature of allegation and gravity of offence, I find no ground to grant anticipatory bail to the petitioner.

9. Dismissed.

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