

Mohd. Khalil @ Khalil Ahmed Vs. State

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Court : Delhi

Decided On : Sep-03-1998

Reported in : 1998(47)DRJ28

Judge : J.B. Goel, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Crl. M. (M) No. 1557/95

Appellant : Mohd. Khalil @ Khalil Ahmed

Respondent : State

Advocate for Def. : H.J.S. Ahluwalia, Adv.

Advocate for Pet/Ap. : R.N. Mittal and; Devinder Chaudhary, Advs

Disposition : Petition dismissed

Judgement :

J.B. Goel, J.

1. This is an application for bail. Petitioner is a co-accused and has been challaned for an offence under Section 395/397/34 IPC.

2. Briefly, the facts are that a dacoity was committed at house No. CP-13, Pitampura, Delhi at about 12.30 p.m. on 18.1.1992 when cash and jewellery were looted after putting in fear of death of two ladies who were present at the said house, namely, Smt. Shakuntla Mann and her daughter-in-law, Anita Dahiya by use of deadly weapons namely, revolver, country made pistol and knives. A FIR was lodged by Smt. Shakuntla Mann on 18.1.1992 when a case under Section 392/34 IPC was registered at Police Station Shalimar Bagh. On investigation, it was found that in all there were six persons involved in the robbery and they had escaped after jumping the back side wall of the house and they were seen by two public persons namely Ishwar Singh and Sub-hash Chand who had informed the police on PCR on which DD No. 15 was recorded at 12.58 p.m. Only four of the accused persons, namely Khalil Ahmed, Sushil Jain, Uddal Singh and Dulal could be arrested on 16.4.1992. These accused had made disclosure statements and they are alleged to have got recovered some of the looted property which was identified in TIP held before the learned M.M. and the petitioner was also identified in TIP by Smt. Anita, Ishwar and Subhash.

3. The accused were committed to the court of learned Sessions Judge. On an application filed by the petitioner, PW Anita was summoned on 26.11.1992 as an accused to stand trial. A revision petition was filed against the said order which was allowed vide my order dated August 4, 1998 and the order of the learned Addl. Session Judge was set aside. That petition remained pending for about 5 years and in the meantime the petitioner was admitted to interim bail which has been continued from time to time by this Court in these proceedings.

4. Before this application bail applications of the petitioner were dismissed by the trial court on 18.9.92, 3.12.1992 and 10.12.92. He had also filed bail applications in this Court. Such applications were also dismissed by this Court on August 13, 1993 in (Crl. M.(M) 1545/93), on October 26, 1993 (Crl. M.(M) 2336/93) and on September 23, 1994 (Crl. M.(M) 2483/94).

5. Learned counsel for the petitioner has contended that two of the co-accused namely, Sushil Jain and Uddal Singh have already been admitted to bail; that two of the public witnesses have been introduced after 39 days and the TIP was also

held late; two of the servants working in the house of the complainant have not been cited as witnesses; that no injury was inflicted by the petitioners in the said dacoity and also that the petitioner has been on interim bail for over 3-1/2 years and now it will not be justified to send him to jail. Whereas learned counsel for the State has contended that he was arrested on 16.4.1992 when he had made disclosure statement in pursuance of which he got recovered some stolen articles, he was armed with a deadly weapon. He was identified by three of the witnesses and apparently the petitioner is a hardened criminal and he has admitted his involvement in a number of cases; there is danger of witnesses being tampered with. The circumstance of each of the accused has been considered. In these circumstances there is no ground for bail.

6. I have considered the arguments, material placed on record. Bail applications of the petitioner have been rejected by the trial court and also by this Court 3-4 times each. Obviously because of the heinous nature of the offence. The petitioner remained on interim bail for a long time but it was because the criminal revision was pending in this court for a considerable long time and the trial court record was lying here as a result of which the trial was held up. Now that obstacle is over and the trial has to proceed. There are eye witnesses and there is every possibility that the witnesses may be terrorised or otherwise tampered with. Before admitting an accused on bail during trial regard has to be had to the background of the accused, the impact that his release may have on the prosecution witnesses, its impact on society and possibility of retribution. The petitioner has been involved in a good number of criminal cases and appears to be a hardened and desperate person.

7. Taking into consideration the nature and gravity of the offence, the fact that the petitioner has been identified in T.I.P. and he was armed with deadly weapon, in my view it will not be in the interest of administration of justice and in the interest of the society and which may endanger the lives of the witnesses to release the petitioner on bail.

8. This petition is accordingly dismissed. Interim bail already granted is hereby cancelled. The petitioner shall surrender within two days failing which his bail bond

shall stand forfeited. The trial court shall ensure the arrest of the petitioner.

9. Trial Court be informed accordingly. The trial court record be also sent back forthwith.

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