

Vinod Khatri Vs. State (Cbi)

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Court : Delhi

Decided On : Jun-16-2003

Reported in : 2004(72)DRJ472

Judge : S.K. Agarwal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 167(2) and 439;
[Prevention of Corruption Act, 1988](#) - Sections 7, 8, 11, 12, 13(1) and 13(2)

Appeal No. : Crl. M. (M) No. 2323/2003

Appellant : Vinod Khatri

Respondent : State (Cbi)

Advocate for Def. : A.K. Dutt, Adv.

Advocate for Pet/Ap. : Rajinder Singh, Sr. Adv. and; R.S. Malik, Adv

Judgement :

S.K. Agarwal, J.

1. This is a petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of bail in case RC No. 3A/2003/CBI/ACU-IX/DLI for the offence Under Sections 7/8/11/12 read with Sections 13(2) and 13(1)(d) of [Prevention of Corruption Act, 1988](#) read with Section 120-B, IPC.

2. Learned counsel for the petitioner submits that petitioner was arrested in the above-noted case on 7.5.2003 and after police remand he was sent to judicial custody on 15.5.2003; that nothing incriminating was recovered from the petitioner or at his instance; that petitioner has clean antecedents and is willing to abide by any condition that may be imposed by the Court; that no useful purpose is likely to be served by keeping the petitioner in custody any longer; and there is no likelihood of the charge-sheet being filed within 60 days, on which date, the petitioner would be entitled to be released on bail under proviso to Section 167(2), Cr.P.C.

3. Mr. A.K. Dutt, learned counsel appearing on behalf of CBI, on instructions from Mr. M.K. Bhatt, Additional S.P., CBI, strongly opposes that bail application. He submits that the work of widening the Aruna Asaf Ali Road was entrusted by the DDA to the PWD; that possession of a strip of land passing through the village Kishan Garh, could not be handled over to the PWD because of the encroachment. Several suits were filed in the High Court of Delhi, including Suit No. 1453/2002 (Azad Singh v. DDA), the file of which was seized from the possession of one Ashok Kapoor on 26.3.2003 in the evening while being taken out from the premises of the accused Dharambir Khattar. Learned counsel argued that in addition to the tape-recorded conversation the investigation agency has collected materials to show that Azad Singh and Simla Chaudhary are related to the petitioner-Vinod Khatri; and that the interim injunction dated 1.2.2002 passed by Hon'ble Mr. Justice J.D. Kapoor was served by the petitioner on the office of DDA on 5.2.2002; that by interim order dated 20.2.2002 passed in Suit No. 1453/2002 (Azad Singh v. DDA), the progress of the widening of Aruna Asaf Ali Road was affected and was made subject to demarcation to be carried out by the SDM. Ms. Geeta Mit-tal, the advocate conducting the case vide her letter dated 28.2.2003, addressed to the Chief Legal Adviser and V.C., opined that the two appeals should be filed thereafter, as per the record the matter was entrusted to Shri Rakesh Munjal, Senior Standing Counsel for DDA, assisted by Sh. Arjun Pant, in pursuance of the conspiracy of Dharambir Khattar and the petitioner-Vinod Khatri. Learned counsel argued that the tape-recorded conversation fully supports the case of the prosecution.

4. For the reasons recorded in Crl.M.(M) No. 2472/2003 (Subhash Sharma v. State), it is not disputed that the tape-recorded conversation can only be used as a corroborative piece of evidence, provided the same is genuine and is not tempered with. On being asked as to what is the substantive evidence so far collected by the investigating agency, in support of its case of conspiracy, learned counsel for CBI submits that because of pressure of work statements of material witnesses could not be recorded. Learned counsel for the CBI, further does not contest that it is not possible to complete the investigation within next 20-25 days. Learned counsel further submits that they would not insist upon the condition that the petitioner should stay out of Delhi for a few months till their investigations are completed.

5. In the facts and circumstances of this case, petitioner is ordered to be released on bail, on his furnishing personal bond in the sum of Rs. 1.0 lac with two sureties in the like amount to the satisfaction of the trial court/ACMM/Duty Magistrate, subject to the conditions that; (i) he shall not influence or tamper with the evidence or contact the witnesses; (ii) he shall not leave the country without prior permission of the trial court; (iii) he shall surrender his passport, if any; and (iv) he shall participate in the investigation as and when required.

6. Petition stands disposed of. dusty to both the parties.