

Pardeep Gupta Vs. State

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Court : Delhi

Decided On : Sep-03-2007

Reported in : 2007(99)DRJ198

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 34, 120B, 420, 468 and 471; [Code of Criminal Procedure \(CrPC\)](#) , 1973 - Sections 173

Appeal No. : Bail Appln. No. 1298/2007

Appellant : Pardeep Gupta

Respondent : State

Advocate for Def. : Sunil Kapoor, Adv.

Advocate for Pet/Ap. : Jitender Tyagi, Adv

Judgement :

Shiv Narayan Dhingra, J.

Crl. M.A. No. 9857/2007 (Exemption)

Allowed subject to all just exceptions.

The application stands disposed of.

1. This application is made on behalf of the petitioner for preponment of the date of hearing of the bail application. The earlier application for early hearing has already been disposed of vide order dated 6th August, 2007, giving liberty to the petitioner to approach the learned trial court for plea bargaining and giving directions to the trial court to entertain the application for plea bargaining.

2. The petitioner had approached the trial court for bail since he is in custody from 14th February, 2006 and is involved in a case under Sections 420/468/471/34 IPC. A perusal of the order dated 25th August, 2006 passed by trial court, rejecting the plea bargaining, shows that the learned trial court had not bothered to look into provisions of Chapter XXIA of Cr.P.C meant for the purpose of plea bargaining and rejected the application on the ground that since the applicant is involved in an offence under Section 120B IPC and the role of the applicant was not lesser than the other co-accused. Prayer of plea bargaining can be made by an accused against whom a report under Section 173 Cr.P.C has been for offences punishable for seven years or less than seven years. None of the offences in which the petitioner has been booked attracted more than seven years punishment. The request of plea bargaining is ought to be considered taking into account the role of the accused, and the nature of the offence etc. The trial court could not have rejected the application for plea bargaining on the ground that he was involved in Section 120B IPC and therefore the request for plea bargaining is not available to him. The attitude of the trial court shows that trial court did not even read the provisions of Chapter XXIA before considering the application.

3.1 consider that it is appropriate that the petitioner should be granted bail. The order dated 25th August, 2007, passed trial court is also set aside and trial court is directed to re-consider the application of plea bargaining made by accused in the light of provisions made in Cr.P.C and not in a casual manner.

4. The petitioner is directed to be released on bail on his executing personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of learned trial court. It is also directed that the trial court shall re-consider the application for plea bargaining made by accused.

5. With the above observations both the application i.e. for preponment of date of hearing as well as bail application stand disposed of.

6. Dasti.

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