

Hanuman Ram Vs. State

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Court : Rajasthan

Decided On : Jul-11-2000

Reported in : 2000(4)WLC687; 2000(3)WLN135

Judge : B.J. Shethna, J.

Acts : Terrorists and Disruptive Activities Act, 1985; [Constitution of India](#) - Articles 226 and 227

Appeal No. : S.B. Civil Writ Petition No. 1864 of 2000

Appellant : Hanuman Ram

Respondent : State

Advocate for Def. : G.K. Vyas and; Mahipal Vishnoi, Adv.

Advocate for Pet/Ap. : J.P. Joshi, Adv.

Judgement :
ORDER

B.J. Shethna, J.

1. The petitioner Hanuman Ram has filed this petition and prayed that the impugned order dated 17.2.2000 (Annex.9) be quashed and set aside. It is further prayed that the Review Committee be directed to make recommendation to the

learned Designated Court, Ajmer for releasing him on bail and accordingly, the Designated Court be also directed to release the petitioner on bail.

(2). This case has a checkered history. In this case, F.I.R. was lodged against as many as 49 persons including the present petitioner. Poonam Chand is the main accused. The accused were initially ordered to be released on interim bail. Later on, the present accused petitioner was absconding. Earlier, he filed writ petition no. 127/2000 before this Court and on 13.1.2000 my learned brother Hon'ble Dr. B.S. Chauhan, J. directed the learned AAG Mr. R.L. Jangid to accept notice and file return within six weeks. Meanwhile, the Review Committee constituting under the order of the Hon'ble Supreme Court was requested to consider the case of the petitioner as per the guidelines issued in case of Kartar Singh vs. State of Punjab (1). Accordingly, the Review Committee in its meeting held on 4.2.2000 considered the case of the petitioner and in view of the confessional statement made by the main accused Poonam Chand and the fact that the recovery of deadly weapon like pistol made at the instance of the present accused petitioner and the fact that the Designated Court declared the petitioner absconding since 14.10.1999, the review committee decided not to recommend for the release of the petitioner accused on bail.

(3). In view of the above decision taken by the Review Committee, when the earlier writ petition no. 127/2000 was placed before me on 29.3.2000 learned counsel Mr. R.K. Purohit for the petitioner sought permission to withdraw this petition to which learned AAG Mr. Jangid gave no objection if simple permission to withdraw this petition was granted and accordingly, that petition was disposed of as withdrawn.

(4). Thereafter, the present petition was moved by the learned counsel Mr. Joshi before the Vacation Judge on 14.6.2000 on the ground that the respondents were going to arrest the petitioner. On 14.6.2000, the learned Vacation Judge ordered to issue notice to the other side calling upon them to show cause as to why this petition should not be admitted at this stage.

(5). Learned counsel Mr. Joshi vehemently submitted that the impugned order at Annex. 9 is a non-speaking order, therefore, it is required to be quashed and set

aside.

(6). It is true that it is a brief order but at the same time, it cannot be said to be a non-speaking order because It is clearly mentioned in the order that the Review Committee considered mainly three aspects: (1) there was a confession statement of the main accused Poonam Chand, (2) there was a recovery of deadly weapon like pistol at the instance of the present petitioner - Hanuman Ram and (3) that the petitioner was absconding after being released on bail. Therefore, by an order dated 14.10.99, the Designated Court under TADA at Ajmer declared the petitioner absconder. Thus, there are sufficient reasons for the Review Committee for taking decision of not recommending the release of the petitioner on bail.

(7). Day by day, law and order situation is deteriorating in the State and the grievance made by the learned Government Advocate was that the leniency of the Court is misused by the accused persons and the police is also finding it very difficult to tackle such serious situation. There is some substance in what has been submitted by the learned Govt. Advocate. This Court has to take judicial notice of the fact that day by day law and order situation in the State is worsening and the same is required to be dealt with strictly and that is possible only if there is cooperation from the Court to the stringent actions taken by the Administration and the Police for nabbing the accused persons who are involved in such type of serious cases.

(8). It must be stated that the question of releasing the petitioner accused on bail will arise only when he surrenders and not otherwise. While remaining at large, having jumped the bail, the accused petitioner would not be entitled to seek any relief from this Court. It may also be stated that this Court is not sitting in appeal over the impugned order at Annex.9 but this Court is exercising its extraordinary Jurisdiction under Article 226 of the Constitution and supervisory jurisdiction under Article 227 of the Constitution. This Court in its supervisory jurisdiction cannot go into sufficiency of reasoning. It is true that in Kartar Singh's case (supra), the Hon'ble Supreme Court has laid down the guidelines for the consideration of the review committee but on the facts of the case, I am fully convinced that no error much less error on facts or law or jurisdictional error is committed by the Review

Committee in taking the impugned decision.

(9). In view of the above, I do not find any substance or merits in this petition and accordingly, it is dismissed.

(10). Before parting, I must state that the petitioner accused is absconding-since long, therefore, he is directed to surrender on or before 31.7.2000, failing which the Designated Court under TADA at Ajmer can proceed in the case against the rest of the accused and the petitioner may be tried only after his surrender.

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