

Harpreet Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Aug-24-1987

Reported in : 1987WLN(UC)543

Judge : Vinod Shanker Dave, J.

Appeal No. : S.B. Cr. Misc. Bail Application No. 1529 of 1987

Appellant : Harpreet Singh

Respondent : State of Rajasthan

Judgement :

Vinod Shankar Dave, J.

1. This is an application under Section 439 Cr. PC in a case under Section 3/6 of I.P.P.R., 307 IPC, Section 27 of the Arms Act and Section 3/4 of Terrorist and Disruptive Activities (Prevention) Act, 1985 (here in after referred to as 'the T.A.D.A. Act')- The petitioner was taken into custody on 25th April, 1987 in FIR No. RC 8/87 registered at SPE, Jaipur. This report was lodged by Shri Nahar Singh, Company Commander, B.S.F., Sri ganganagar on 16th June, 1987. This case was registered initially against accused Mohan Inder Singh alias Pushpinder Singh alias Ajeet Singh. During the investigation of the case Shri Mohan Inder Singh made a detailed statement before the Investigating Officer where in he also made reference to the petitioner and made certain disclosures about the petitioner's

rendering services for carrying out certain activities prejudicial to the security of the State. On the basis of this statement, as mentioned aforesaid, the petitioner was arrested and interrogated. It is pertinent to mention here that the petitioner prior to his arrest in this case had already been taken into custody in FIR Nos. 26 and 27 of Police Station Valtoha dated 7th February, 1987 for offences under Sections 3/4 of T.A.D.A. Act and 27 of Arms Act respectively. He was however, bailed out in these cases on 6th March, 1987. As mentioned aforesaid, having been arrested in the present case on 25th April, 1987 at Firozpur, he was brought to Jaipur for interrogation.

2. Petitioner's statement was recorded by the Investigating Officer and the investigation continued. Meanwhile the accused moved an application for grant of bail before the learned Sessions Judge, Jaipur City, Jaipur which was rejected by order dated 18th June, 1987. It is thereafter that the accused moved the present bail application. This bail application initially was heard on 14-7-87 on which date time was prayed for on behalf of the CBI Diary was produced before me on 17th July, 1987 on which date counsel for the accused wanted some documents to be filed in support of the application which he produced on 23 rd July, 1987. Arguments were concluded on 4th August, 1987 and the parties were directed to pass over the copies of the documents they relied upon during the course of arguments. Learned Public Prosecutor was also directed to furnish the diary. Diary was furnished on the next date but the learned counsel for the petitioner forwarded the documents which he relied on 20th August, 1987.

3. During the course of arguments, learned counsel for the petitioner submitted that petitioner has been falsely implicated into this case and the accused Mohan Inder Singh has given statements implicating him for the purpose of black mailing. It is submitted that the petitioner has a very important position in the society in as much as he a member of a legislative assembly, his father was a member of Parliament and a Minister in Barnala Ministry, his father in-law was the Chief Minister of Punjab at one lime and, therefore, his position is sought to be exploited. It is and further submitted that whatever has been stated by Mohan Inder Singh against him, is not corroborated by any evidence and besides this about the arms recovered from him, he has already been released on bail by the Designated

Court in Punjab. His further submission is that he has been time and again arrested by falsely implicating in cases and in this case also he is being maliciously roped in. It is submitted that if the entire evidence collected by the police so far is relied upon even then no conviction is possible in the case and therefore, the accused is entitled to be released on bail.

4. Learned Public Prosecutor submitted that there is evidence to the effect that Mohan Inder Singh alias Pushpinder Singh is a prominent pro-Khalistani leader and is an Executive Member of I.S.Y.F. who was arrested after exchange of fire with B.S.F. personnel while he was returning from Pakistan after holding negotiation with Pakistan's Army Officials in regard to disputings of weapon's consignment from Pakistan to India. It is submitted that these weapons were being imported to India for making them available for killing VIPs and carrying out terrorist activities. Mohan Inder Singh met the petitioner in November, 1986 and the petitioner assured him his full support in smuggling the arms from Pakistan by using his good offices in Mandawat and Zalalbag sectors. He also assured Mohan Inder Singh that he will get him a job through his father's influence in a fictitious name so that his identity cannot be known. It is submitted that T.A.D.A. Act is a special Act where the accused should not be released on bail.

5. I have given my earnest consideration to the rival contentions and have perused the law as well as all the documents placed before me by either parties.

6. Case against the petitioner is being investigated for offence under Sections 3/4 of the T.A.D.A. Act. He was arrested at 4.00 p.m. on 25th April, 1987 from his house situated at Bagdadi Gate in Firozpur. It is pertinent to mention here that accused-petitioner Harpreet Singh was earlier arrested in FIR No 26 dated 7th Feb., 1987 of Police Station Valtoha district Amritsar and FIR No. 27 of 7th February, 1987 of the same Police Station under Section 27 of the Arms Act. It is also pertinent to mention here that petitioner was detained under the National Security Act on 3rd May, 1984 prior to which he was hauled up in a case under Section 124A and 153A, IPC and Sections 10 and 13 of Unlawful Activities (Prevention) Act, 1967 and Section 3 of Prevention of Damage to Public Property Ordinance, 1984. He was also taken in custody in FIR No. 21 of 14th January,

1987 for offences under Sections 302/ 307/ 436/ 148/ 149, IPC and 3/4 of the T.A.D.A. Act. In this case, he was discharged by the learned Magistrate on 6th March, 1987 when the request of police was declined as there was absolutely no evindence connecting him with the crime. In his detention under the National Security Act he was directed to be released as the detention order was quashed by Punjab and Harayana High Court. He was granted bail in all the criminal cases including the one under Section 3/4 of the T.A.D.A. Act by Additional Judge, Designated Court, Gurdaspur at Amritsar vide decision dated 5th March, 1987. In this order granting bail the learned Judge discussed in detail the entire material which ever was available against the petitioner till that date. It is after the grant of this bail and the decision of the accused in the murder case that he was arrested in the present case. Thus to the best of the information furnished by learned counsel for both the parties, there is no other matter in which the accused is wanted except the present one and in the cases pending investigation elsewhere he has been granted bail.

7. Before appreciating the facts in this case, I would like to observe that since the accused is being detained for offence under Section 4 of the Act, he can only be released on bail provided this Court has reasonable ground to believe that the petitioner is not guilty of the offence covered under the Act and that he is not likely commit any offence while on bail. Section 17(5)(b) of the T.A.D.A. Act reads as under:

17(5)(b)-Where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

The word 'Terrorist' has been defined under Section 2(1)(f) of the Act while 'Terrorist Act' under Section 3(1) of the Act. Both these Sections read as under:

2(1)(f)-'Terrorist Act' has the meaning assigned to it in Sub-section (1) of Section 3 and the expression 'terrorist' shall be construed accordingly.

3(1)-Whoever with intent to overawe the Govt. as by law established or to strike terror in the people or any section of the people or to alienate any section of the

people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or fire-arms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death of, or injuries to, any persons or person or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, commits a terrorist act.

Thus, it is essential that the act of that accused must cover an act of striking terror in the people or any section of the people or act of alienating any section of the people or to adversely effect the harmony amongst different sections of the people. It must be an act of overawing the Government as by law established and carrying out these acts or intentions with further act of using bombs, dynamite or any other explosive substances or inflammable substances or fire arm so on and so forth in a manner so as to cause or likely to cause death or injuries to any persons or persons or damage to or destruction of property or disruption of any supplies or services essential to the life of the community.

8. I have carefully perused the statement of Mohan Inder Singh as well as the accused Harpreet Singh. Since the case against Mohan Inder Singh is still under investigation, I would not like to comment much upon his statements as it is likely to prejudice his case or cases of any other person might be warranted in case. But suffice it to say that accused is sought to be implicated by him for two reasons one for aiding him in smuggling of arms and secondly for getting a job for him. I have also carefully gone through the statements of Harpreet Singh and other witnesses recorded so far. It is borne out from the record that father of the accused Shri Mohinder Sainyawala is a well known political leader of the area and was the Minister of State for Local Self Government in Barnala Ministry. He was the member of the Legislative Assembly on Akalidal's ticket in 1969 and became Member of Parliament in 1977. Accused petitioner is married to Smt. Karanjeet Kaur D/o Laxman Singh Gil, an Ex-Chief Minister of Punjab in the year 1967-68. The whole family of the petitioner is very well connected with various important persons and most of them have political back ground. The petitioner himself was

elected to the Legislative Assembly in 1977 but was unseated because of the judgment of Punjab and Harayana High Court in an election petition filed against him. Except that he is sought to be named in the aforesaid background and his position is sought to be exploited, there is no corroboration to any of the facts narrated by Mohan Inder Singh in his statement. From a perusal of the entire case diary, I could not get any such convincing evidence on the basis of which it may be possible to hold the petitioner guilty of any offence under the T.A.D.A. Act. The evidence of Mohan Inder Singh cannot be read against him as there is no evidence of conspiracy on record and the prosecution itself has not chosen to invoke the said section. In this view of the matter, there is no evidence at all that any of the acts falls within the ambit of Section 3(1) of the T.A.D.A. Act and for that he is a terrorist as denned in Section 2(1)(f) of the T.A.D.A. Act He has already been released on bail, as mentioned above, by a detailed order by Additional Judge, Designated Court, Gurdaspur at Amritsar, under the provisions of Sections 3 and 4 of the T.A.D.A. Act and that part of the story cannot be used to be advantageous of the prosecution in this case. Thus, considering as a whole, it is reasonable to conclude that this Court has no hitch in recording its satisfaction that there are reasonable grounds to believe that the petitioner is not guilty of any offence covered under the T.A.D.A. Act and that there is no likeli-hood of the accused-petitioner committing any offence while on bail and, therefore, he is entitled to be released on bail.

9. It is, therefore, ordered that the accused Harpreet Singh shall be released on bail on his furnishing a personal bond in the sum of Rs. 20, 000/- with two sureties of Rs. 10, 000/- each to the satisfaction of the Additional Chief Judicial Magistrate, C.B.I. Court, Jaipur. One of the conditions of the bond would be that the accused shall make himself available to the Investigating Officer as and when he is required for investigation and secondly that he will report once a month to a Police Station to be named by the Superintendent of Police, C.B.I. Cases, Jaipur at the time when the bail bonds of the petitioner are being verified.