

Pradeep Singh Alias Sunil Singh Vs. State of U.P.

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Court : Allahabad

Decided On : Feb-01-2011

Judge : A.P. Sahi, J.

Appeal No. : Criminal Misc. Bail Application No.1875 of 2011

Appellant : Pradeep Singh Alias Sunil Singh

Respondent : State of U.P.

Advocate for Pet/Ap. : Sri. L.M. Singh

Judgement :

1. The applicant, his father and his mother along with other co-accused are alleged to have abetted the suicide of the deceased and there is a further allegation on the applicant that he has also committed the offence of rape. Needless to mention that the mother of the applicant has been bailed out on 18.11.2010 in Criminal Misc. Bail Application No.32008 of 2010 and father of the applicant has also been bailed out on 22.12.2010 in Criminal Misc. Bail Application No.35094 of 2010. The applicant discloses himself to be working in a private firm at Lucknow and he is not involved in any other criminal case so as to dis-entitle him to pray for bail.

2. Sri L.M. Singh, learned counsel for the applicant, submits that this was a case which prima facie indicated a relationship between the applicant and the victim, who wanted to live together and the victim who belongs to an inferior caste having

failed to get the blessings of her guardians, was allegedly assaulted and done to death by her kith and kin or on account of being humiliated by them she may have committed suicide. It is further submitted that the entire investigation, the post-mortem report, the Punchnama and the stand of the Villagers, who could have been independent witnesses, clearly support the case of the applicant, who has been falsely implicated and charge-sheeted for the offences as alleged. Sri L.M. Singh has invited the attention to the various allegations contained in the bail application and has assisted the Court with parts of the Case Diary as produced by the learned A.G.A. to substantiate his pleadings. In short, the contention of the learned counsel is that the victim appears to have been brutally assaulted at her own house by her own kith and kin as she refused to listen to them and it appears that she was also set on fire to give the incident a shape of suicide.

3. The matter had been adjourned on the last 2 occasions to enable the concerned Investigating Circle Officer to be present along with the Case Diary and the relevant information and yesterday he was also commanded to file an appropriate Affidavit in the light of the queries raised by the Court in the order dated 28.1.2011. An Affidavit of Mr. Prem Prakash, the Circle Officer, Ghatampur, who is the Investigating Officer in the said crime, has been filed upon having served the same on the learned counsel for the applicant.

4. Learned A.G.A. contends that any defect in the investigation will not dilute the complicity of the applicant and in view of the heinous nature of the offence, the applicant does not deserve bail and there is no parity with his parents so as to grant him bail. Learned A.G.A. further submits that the manner in which the girl came to be recovered on the pointing out by the applicant himself, and further from the mental condition of the girl as well as the statement of the witnesses, it is clear that the applicant had abetted the offence and had also outraged the modesty of the victim forcibly. He further submits that the post-mortem reflects the cause of injury due to ante-mortem shock burn injuries and, therefore, it is a clear case of suicide on the instigation and intimidation of the applicant.

5. The bail has been opposed vehemently by Sri Sharique Ahmad, learned counsel for the informant/complainant and he submits that in view of the law laid

down in the case of Amar Mani Tripathi v. State, (2005) 8 SCC 21, and the decision in the case of Gobarbhai Naranbhai Singala v. State of Gujarat, (2008) 3 SCC 775, that has been followed in the case of Salahuddin v. State of U.P. and others, Special Leave to Appeal No.2737 of 2008, this Court need not enter into a detailed examination of the evidence so as to prejudice the trial and, prima facie, from the evidence already collected, the applicant has been appropriately charge-sheeted for the offence committed by him. While advancing his submissions, he has placed reliance on the statement of the Station House Officer K.R. Dohre and the statement of some of the other villagers which were recorded later on to contend that they corroborate the story of the prosecution about the commission of suicide and he further submits that had the applicant been not released by the Police a day earlier, the incident would not have occurred. His contention is that since the applicant was set free by the Police on the first day and the deceased saw the applicant, she felt humiliated and, therefore, committed suicide. While raising his submissions with regard to the second injury indicated in the post-mortem report, Shri Sharique Ahmad submits that this might have occurred when the deceased after setting herself on fire had dashed her head on the iron grill on the first floor where the body of the deceased was found. For this, he submits that the injury even other wise does not appear to have been caused by any hard or blunt object as there is no oozing of blood and, therefore, the doubt in the mind of the Court at this stage should be dispelled and the bail application should be rejected keeping in view the heinous nature of the offence.

6. Coming to the first objection raised on behalf of the complainant's counsel, it would be appropriate to quote the paragraph on which reliance was placed which is extracted below:-

"As was stated by us in the case of Gobarbhai Naranbhai Singala v. State of Gujarat and others, (2008) 3 SCC 775, wherein reference was made to the decision of this court in Amarmani Tripathi v. State of U.P., (2005) 8 SCC 21, wherein it has been indicated that a detailed examination of the evidence is to be avoided so that no prejudice is caused. It was observed that only a brief examination is

to be done to satisfy about the facts and circumstances or otherwise of a prima facie case.

7. Accordingly, this Court is proceeding only on prima facie evidence that is contained in the Case Diary and on which submissions have been advanced by the parties concerned.

8. The story of the prosecution as unfolded through the F.I.R. and the statement recorded by the Police indicates that the applicant when he came home allegedly made overtures towards the victim which were described as indecent by the informant. Needless to say that the applicant's family and the family of the deceased are neighbours just across the lane. The victim is alleged to be about 16 years of age studying in class-XI. The applicant's case is that there was a love affair between the applicant and the deceased.

9. The mother of the deceased Smt. Sarojini while describing the incident stated that the deceased appears to have gone to attend the call of nature in the early morning at about 4.00 A.M. on 2.9.2010 where after she did not return for quite some time. Then the parents on the same day allegedly approached the Station House Officer with an application alleging that the applicant had been in the past making indecent overtures towards their daughter upon which the Station House Officer immediately took into custody the applicant to the Police Station where after the applicant's father and mother started threatening the informant.

10. It is also stated by her that when she reached the Police Station along with her husband, the applicant was there and he informed that the victim was lying tied down with a rope in a nearby field of the applicant where "Jwar" was sown. The mother of the victim and the others returned back and at about 5.00 P.M. in the evening, they recovered the girl tied with a rope and her face covered with a cloth where after they took her home. At that point of time, it is alleged that the victim informed the parents that she had been forcibly taken away by the applicant to his house where he had committed rape and with the help of his father, he had allegedly taken her to the agricultural field and tied her hands and feet and left her there. It is further stated that when they were at home at 7.00 P.M. on 2.9.2010 itself, then one Chhidu Mishra alias Shiv Prakash approached them and

threatened them not to take any action and to forget whatever has happened to their daughter. The applicant was at the Police Station in the custody of the Police and according to the statement of the Station House Officer Mr. Dohre since there was a compromise between the parties, the applicant was released at 8.00 A.M., the next day.

11. The statement of the informant, the mother of the deceased and the other witnesses do not narrate anything immediately preceding the occurrence which is stated to have taken at 10.00 A.M. on 3.9.2010. There is no indication in any of the statements as to where were the family members when the alleged suicide was committed by the deceased in broad-day-light at 10.00 A.M. on the first floor of their premise. There is also nothing to indicate that no-one made any attempt to save her life when she set herself on fire. The Punchnama or the other statements of the witnesses at the time of the recovery of the body does not indicate that the suicide was committed after bolting any door or locking the house from inside.

12. The Punchnana, as contained in the Case Diary, does not indicate any sign of visible injury of the nature of injury No.2 as contained in the post-mortem report. The Investigating Officer has categorically stated in paragraph no.4 of his Affidavit that at the time when the Punchnama was prepared only burn injuries was seen on the dead-body and no other injury was visible.

13. Noticing the Case Diary dated 4.9.2010, where the receipt of post-mortem report is recorded, the Court had raised a query from the concerned Circle Officer about any further investigation having been attempted on noticing the second injury in the post-mortem report. The only response given in the Affidavit of the Investigating Officer is that no irregularity or deliberate inadvertence has been committed in the investigation. There is no explanation as to why no probe was made or further investigation carried out before submitting the charge-sheet in spite of the fact that not only the Circle Officer but the Superintendent of Police (Rural Area) have endorsed their signatures after seeing the report. The cause of death has been shown to be ante mortem shock burn injuries. There is no recital about the impact of injury No.2.

14. Apart from this serious lapse even the witnesses including the informant and the mother of the deceased have not said a word in their statements nor any attempt has been made even by the complainant to get this aspect investigated. Up to this stage before this Court, it is not the case of the prosecution that the said second injury mentioned in the post-mortem report is a false injury. On the contrary, the complainant's counsel has raised a probable argument that the same may have occurred on account of the head having been dashed against the iron-grill.

15. In the prima facie opinion of the Court, there is a total lack of investigation on the material already collected and it appears that after the girl came into the custody of their parents in the evening of 2nd September 2010 itself, an assault on the person of the deceased may have occurred. The said assault is not described as a post-mortem assault. If the same is an ante-mortem injury, then the Police ought to have investigated to find out the probability of the same to ascertain as to whether the deceased had been assaulted before having set herself on fire or not. At least no allegation of causing any such injury has been made against the applicant nor did the complaint of the informants indicated any such assault. On this score, there is a contrary version of a large number of villagers contained in Annexure-3 to the bail application dated 11.9.2010. This aspect of the matter, therefore, on the basis of the material available raises a serious doubt on any abetment by the applicant and conversely raises a doubt to an abetment under circumstances upon being humiliated either by the family members of the deceased or any other person associated with them. This was a strong circumstance to have been probed and investigated once the girl had returned back to the custody of the parents.

16. Learned counsel for the applicant Sri L.M. Singh contends that not only this a large number of villagers had supported this stand by filing Affidavits and had moved applications which have been completely ignored by the authorities for compulsions which they can only explain.

17. Sri Singh submits that so far as the applicant is concerned, he had neither any intention, nor did he enter into any conspiracy or instigated the deceased in any

way so as to presume an act of abetment on his part. The presumption or otherwise an abetment has been lucidly dealt with by the Apex Court in a recent pronouncement in the case of Gangula Mohan Reddy v. State of A.P., 2010 (1) JT 17 (Paras 6 to 21).

18. The entire attempt of the learned counsel for the complainant during the course of submission was to justify the prosecution story without any success in pointing out the link from the material included in the case diary to the surprisingly unattended and unnoticed circumstances leading to the suicide in broad daylight at 10.00 A.M. on the first floor of a small house in a populated hamlet. This featureless blank exists in the investigating process that further adds to the obscurity of the attending circumstances. The learned A.G.A. has also expressed his helplessness on this issue and has not been able to explain as to why the investigating officer did not choose to probe into the cause of the second injury or collect any version about the mystery of absence of total humanity when this alleged dastardly attempt was made in an inhabited place during ordinary daily working routine hours.

19. The ritual of investigation appears to have been abandoned reflecting a calculated disregard to probe the truth. The skeleton prima facie appears to have been visibly manipulated in somebody else's closet. It would be a paradox to describe the incident as either a suicide or honour killing if it is ultimately found to be manslaughter.

20. It has been pointed out by the learned counsel for the applicant that in fact the mother of the deceased had illicit relationships with one Moolchand and she wanted her daughter to marry the son of Moolchand which was being resisted by the deceased as she was infatuated with the applicant. It is quite possible that on reaction, the deceased may have been assaulted and done to death. In such circumstances it may not have been a case of suicide at all.

21. Having heard learned counsel for the parties and the contentions so raised and having perused the Case Diary, prima facie, the material, which has been placed before the Court, the circumstances do make out a case for grant of bail to the applicant. The applicant is in private employment and he had surrendered

himself to the Police at the first instance and was in their custody on 2.9.2010 itself, in such a case, it cannot be believed that the applicant shall abscond. His complicity in the offence is under a cloud. The pathological medical report does not indicate any prima facie evidence of the commission of the offence of rape.

22. In the circumstances, let the applicant be enlarged on bail subject to the condition that he shall continue to attend the Court on every date fixed without fail. It shall be open to the trial Court to take such measures as may be necessary for an appropriate disposal of the trial.

23. Let the applicant - Pradeep Singh alias Sunil Singh involved in Case Crime No. 596 of 2010, under Sections - 342/506/306/376 I.P.C. & Section 3(2)(12) SC/ST Act, Police Station - Ghatampur, District - Kanpur Nagar, be enlarged on bail on his executing a personal bond and furnishing two sureties, each in the like amount, to the satisfaction of the court concerned.

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