

Madhav Prasad Vs. State

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Court : Delhi

Decided On : Sep-24-2012

Judge : P.K. Bhasin

Appeal No. : BAIL APPL. NO. 1224 OF 2012

Appellant : Madhav Prasad

Respondent : State

Advocate for Pet/Ap. : Mr. Ajay Burman

Judgement :

ORDER P.K.BHASIN, J.

1. The petitioner-accused is a municipal counsellor having contested and won the municipal council elections held on 15th April, 2012. He has filed this application for his release on bail in a murder case registered against him at the police station at Delhi Railway Station(Main) on 11th April, 2012 vide FIR No.43/2012.

2. The petitioner was contesting election to be held on 15th April, 2012 to become a municipal counsellor and was holding a pre-election meeting at the Azadpur Railway Station platform on the night of 10th April, 2012. During that election meeting some people from the crowd were claiming that the petitioner had done nothing during his last stint as a counsellor while the petitioner was claiming

that he had done much work. Upon that a quarrel took place and during that quarrel the petitioner and one of his supporters Anil Yadav allegedly caught hold of one Jai Parkash while one Pinku (alleged to be the petitioner's driver) had stabbed him with a knife. The injuries sustained by that Jai Parkash proved fatal for him and he died in the hospital where he was rushed for medical aid by the complainant-eye witness Varinder Yadav. Information about that incident was given to the Subzi Mandi police post(Rly) where it was recorded at about 2.35 a.m. as DD No.4. The complainant-eye witness Varinder Yadav gave a written complaint about the said incident, naming therein the petitioner herein also as one of the three persons who had injured Jai Parkash, to the police in the morning when the investigating officer had visited the place of occurrence on receipt of aforesaid DD No.4 and then FIR was registered at about 7.45 a.m. at the police station at Delhi Main Railway Station.

3. The petitioner-accused was arrested on 11.04.2012 and after having failed to get bail from the Sessions Court he approached this Court and moved the present application for his release on bail.

4. It was argued by Mr. Ajay Burman, learned counsel for the petitioner-accused, that a totally false case has been registered against the petitioner because of political rivalry and to spoil his political career as his political rivals did not want him to contest the election and get re-elected and that was evident from the fact that even though he had allegedly been seen as a participant in the stabbing incident by the complainant Varinder Yadav in the night of 10th April,2012 at about 11 p.m. yet he reported the involvement of the petitioner-accused to the police only next morning at about 7 a.m. It was further submitted by the learned counsel that the false involvement of the petitioner is evident also from the fact that though some information had been given to the police about some jhagra going on at the Azadpur station amongst political workers of one political party and which information was recorded vide DD NO.4 at Subzi Mandi police post at about 2.35 a.m. on 11.04.2012 but no stabbing of anyone was reported and in fact the stabbing incident which was reported to the police at about 11. 48 p.m. on 10.04.2012 by the complainant himself had, as per the information given to the police, taken place at some place near Ramlila Park in Lal Bagh and information in

that regard was recorded vide DD no. 35-A at Adarsh Nagar police station which also shows that no stabbing incident took place at Azadpur Railway Station, as was reported by the complainant Varinder Yadav next morning. According to Mr. Burman, the very claim of the complainant of his being an eye witness of the incident becomes highly doubtful also from the fact that even though he claimed to have accompanied the deceased to the hospital for medical aid but in the medical papers of the hospital his name was not shown to be the person who was accompanying the deceased which would have been so mentioned in case actually he had taken the deceased to the hospital and name of the assailants also would have been disclosed to the attending doctor since they were known to the complainant and absence thereof in the medical documents makes it more than clear that the complainant was not an eye witness and only after due deliberations he had been introduced as an eye witness to name the petitioner as one of the three participants in the crime. Mr. Burman also submitted that in fact the present case was registered as a counter blast to the case which the petitioner himself had lodged against the complainant Varinder Yadav and his associates vide DD No. 5B at Adarsh Nagar police station on the night of 10th April, 2012 itself. That complaint related to the incident in which the petitioner's driver Manoj Bhagat @ Pinku, who in the present case is shown to be the stabber of Jai Parkash, was injured by Varinder Yadav and his associates and the petitioner was also beaten but the police had registered the formal FIR of that incident under Section 308/34 IPC on the statement of injured Manoj Bhagat at 9 a.m. after registering the false FIR of murder at 7.45 a.m. on 11.04.2012 as FIR No.44/2012. As per the complaint of Manoj Bhagat the deceased Jai Parkash was also present at the time of the incident in which he was assaulted by Varinder Yadav and others.

5. Mr. Burman contended that since the police had registered cross FIRs and there were injuries caused to persons from both the sides the petitioner deserved to be released on bail. In support of this submission Mr. Burman also relied upon one order of the Supreme Court reported as **AIR 2002 Supreme Court 487** in which case there were casualties from both the sides and so the accused from one side who had approached the Supreme Court was granted bail. Mr. Burman also argued that in any event the only role attributed to the petitioner being that he had simply caught hold of the deceased while his associate had stabbed him the

petitioner deserves to be granted the relief of bail, as was given by this Court to an accused vide order reported in **1996 JCC 277**, “ **Shyam Bihari vs The State of Delhi**” while allowing his bail application and against whom also the allegation was that he had caught hold of the victim while his associate had assaulted him with a danda on his head which blow had proved to be fatal.

6. Opposing this application Mr. M.N.Dudeja, learned Additional Public Prosecutor submitted that from the submissions made by the counsel for the petitioner-accused one thing was clear that at the time of the incident presence of the petitioner himself, complainant eye witness Varinder Yadav as well as the deceased Jai Parkash and petitioner's driver at the place of occurrence is admitted by the petitioner-accused. And as far as the submission that Varinder Singh's claim of his being an eye witness is doubtful because of his having not named the petitioner immediately after the incident is concerned, Mr. Dudeja submitted, the same is of no effect as the so-called delay was not that much and in any case the same can be explained during the trial. It was also contended that on enquiries it was found by the police that the incident reported to the police about quarrel amongst political workers and stabling had actually taken place at the Azadpur railway station and not near Ramlila Park in Lal Bagh. It was also argued that the petitioner-accused can influence as well as threaten the witnesses in case he comes out of jail being a powerful political personality and, therefore, he should not be granted bail.

7. Considering the fact that there is an eye witness of the incident who has categorically claimed that the petitioner - accused was one of the participants in the incident of stabbing of the deceased and also considering the fact that the petitioner being a man in power having won the election as a Municipal Counsellor and in a position to influence the witnesses I do not consider this to be a fit case for grant of bail to him. The fact that the role assigned to him is only of catching hold of the deceased will not make any difference since the fact remains that the person who had stabbed the deceased was his driver only and the third person was his supporter and so at this stage it cannot be said whether the petitioner is the main culprit or not. This bail application is accordingly dismissed.