

(2002) 01 SC CK 0062
In the Supreme Court Of India
Case No : Criminal Appeal No. 13 Of 2002

Amarjit Singh

APPELLANT

Vs

State of NCT of Delhi

RESPONDENT

Date of Decision : 08-01-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438, 438(1), 438(2)
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2002) 1 ALT(Cri) 382 : (2002) 96 DLT 59 : (2002) 1 JT 291 : (2002) 3 RLW 361

Hon'ble Judges : R. P. Sethi, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Leave granted.

2. The accused is the appellant and assails the condition imposed by the learned Additional Sessions Judge while invoking his jurisdiction u/s 438 of the Criminal Procedure Code and granting anticipatory bail to the accused, which condition was affirmed by the High Court. Be it stated that an FIR having been lodged alleging commission of an offence by the appellant under Sections 406/ 420 of Indian Penal Code, the appellant moved the learned Additional Sessions Judge, Delhi for grant of anticipatory bail invoking this jurisdiction u/s 438 of the Criminal Procedure Code. By order dated 11.4.2001, the learned Additional Sessions Judge came to the conclusion that the appellant would be entitled for grant of anticipatory bail, but it should be subject to the deposit of a sum of Rs. 15 lacs in the form of FDR in the name of the Trial Court as a security for the deposit amount, which was allegedly settled between them. He accordingly directed that in the event of arrest, he shall be admitted to bail on furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount subject to the condition that he surrenders the FEDR for a sum of Rs. 15 lacs in the name of the Trial Court to the Investigating Officer/Arresting Officer who

shall forward the same along with the challan, whenever it is filed in the Court. The accused being aggrieved by the condition requiring to deposit the sum of Rs. 15 lacs, moved the High Court. The High Court by the impugned order having affirmed the same, the accused has moved this Court.

3. The contention of the learned Counsel appearing for the appellant is that notwithstanding the fact that u/s 438(2) of the Criminal Procedure Code, the Court is empowered to include such conditions in such directions in the light of the fact of the particular case, as it may think fit, while invoking the power under Sub-section (1) of Section 438, but the expression "such condition" in Sub-section (2) would not be unreasonable condition which would be difficult for the accused to comply with the imposition of an unreasonable condition would tantamount to refusal of invoking the discretion under Sub-section (1) of Section 438. According to learned Counsel, the condition imposed in the case in hand, to deposit in the form of FDR Rs. 15 lacs is an impossible condition and must be held to be an arbitrary condition imposed by the Court even after deciding to invoke the discretion under Sub-section (1) of Section 438. In support of this contention, reliance was placed on a decision of this Court in Sandeep Jain Vs. National Capital Territory of Delhi Rep. by Secretary, Home Deptt., . The learned Counsel appearing for the State, on the other hand objected to the variation of the condition, particularly when according to the learned Counsel the accused himself conceded to the amount being kept in deposit. From the order of the learned Additional Sessions Judge, it transpires that the accused obviously conceded for such legal conditions to be imposed by the Court for grant of anticipatory bail and there was no agreement on the part of the accused that he would deposit the sum of Rs. 15 lacs.

4. Having regard to the facts and circumstances of the present case, we have no hesitation in coming to the conclusion that the imposition of condition to deposit the sum of Rs. 15 lacs in the form of FDR in the Trial Court is an unreasonable condition and, therefore, we set aside the said condition as a condition precedent for granting anticipatory bail to the accused/appellant. We accordingly allow this appeal and set aside the condition imposed by the learned Additional Sessions Judge to deposit the sum of Rs. 15 lacs in the form of FDR in the Trial Court, and on the other hand direct that on executing a bond to the tune of Rs. 25,000/- with two solvent sureties to the satisfaction of the concerned Magistrate, and further that the accused shall make himself available for interrogation whenever is required and the accused should surrender his passport immediately to the concerned Magistrate where the matter is pending and would not leave this country without appropriate permission from the Court, he would be entitled to the order granting him anticipatory bail.

5. The appeal is disposed of accordingly.

6. Appeal disposed of.