

(2014) 02 DEL CK 0240

In the Delhi High Court

Case No : Bail Application No. 2191 of 2013

Aruna Chadha

APPELLANT

Vs

State of NCT Delhi

RESPONDENT

Date of Decision : 10-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164 439 482

Evidence Act, 1872 — Section 30

Penal Code, 1860 (IPC) — Section 109 120B 201 304 306

Citation : (2014) 3 AD 130 : (2014) 1 JCC 745

Hon'ble Judges : Ved Prakash Vaish, J

Bench : Single Bench

Advocate : U.U. Lalit and Mr. Manoj V. George, for the Appellant; Sidharth Luthra, ASG, Mr. Rajesh Mahajan, ASC for the State and Mr. Kanwarjeet Singh, for Deceased complainant, for the Respondent

Final Decision : Disposed Off

Judgement

Ved Prakash Vaish, J.—By way of present application u/s 439 read with Section 482 of the Criminal Procedure Code, 1973 (for short "Cr.P.C."), the petitioner Aruna Chadha seeks bail in case FIR No. 178/2012 under Sections 306/304/34 IPC registered at P.S. Bharat Nagar, Delhi. Notice of the application was given to the State. Status report has been filed by the State.

2. I have heard learned senior counsel for the petitioner and learned Additional Solicitor General for the State.

3. Learned senior counsel for the petitioner submitted that the case was registered on the complaint of Mrs. Anuradha Sharma, mother of the deceased on 5.8.2012. The petitioner joined the investigation of this case and she was arrested on 8.8.2012. On completion of investigation, chargesheet for the offences under Sections 306/506/201/120B/466/467/468/469/471 IPC read with Section 34 IPC and Section 66A of the I.T. Act was filed.

4. He further submitted that petitioner moved applications for bail before Additional Sessions Judge, Delhi which were dismissed on 7.9.2012 and 15.10.2012. Another application filed by the petitioner before this Court was dismissed as withdrawn on 21.9.2012 with a liberty to file a fresh application before trial court. The petitioner moved an application for bail bearing Bail Application No. 1705/2012 which was dismissed by this Court on 3.12.2012.

5. Learned senior counsel for the petitioner contended that the petitioner filed Special Leave to appeal before Hon"ble Supreme Court i.e. CrIMP. No. 8750/2013 against the order dated 3.12.2012 passed in Bail Application No. 1705/2012 of this Court titled Aruna Chadha vs. State of NCT of Delhi which was disposed of as withdrawn on 22.4.2013. While disposing of the said application, Hon"ble Supreme Court granted liberty to the petitioner to approach the trial court to seek regular bail immediately, after the charges being framed by the trial court.

6. It was urged that the learned trial court passed an order on charge on 10.5.2013 for framing of charges for the offences under Sections 120B IPC, 466/471 IPC read with Section 120B IPC, Sections 468/469 IPC read with Section 120B IPC, Section 306 IPC read with Section 120B IPC, Sections 376/377 read with Section 109 IPC and Section 66 of the I.T. Act, 2000 read with Section 120B IPC.

7. The petitioner preferred revision petition against the said order bearing CrI. Rev. Petition No. 305/2013. Vide order dated 25.7.2013, this Court set aside the order of framing the charge for the offence punishable under Sections 376/377/109 IPC.

8. The petitioner moved an application for seeking clarification of the order dated 25.7.2013 which was disposed of vide order dated 22.11.2013 and it was also observed that the trial court shall conduct the trial of the case expeditiously and conclude the same at an early date. But the trial is not proceeding due to the fault on the part of the prosecution and in view of that it would take several years to complete the trial.

9. It is also stated that learned trial court has framed amended charge on 6.12.2013.

10. The petitioner moved an application seeking bail which was dismissed by trial court on 16.11.2013.

11. Learned senior counsel for the petitioner further contended that the petitioner was an employee of MDRL Group in which co-accused Gopal Goyal Kanda was the Chief Managing Director. The petitioner had resigned on 30.8.2008 and she rejoined the said company on 8.7.2010. He pointed out that according to the case of prosecution the petitioner had visited Dubai only once on 14.7.2010, which is clear from the chart filed by the prosecution with the chargesheet.

12. Another submission of learned senior counsel for the petitioner is that the

deceased went to Mumbai for fashion show. The petitioner made the last call to the deceased on 26.7.2012 and had a word with her mother and requested to send the deceased for signatures on various documents like a complaint which was lodged by the deceased at Police Station Goa regarding theft of her laptop which was compromised later on. A petition for quashing of the said FIR relating to theft was filed at High Court at Mumbai and at that time Mr. Ankit Ahluwalia, Advocate advised that the signature of the complainant (deceased) on the said petition was required.

Further an educational institution in the name of Sundale Education Society was floated wherein the deceased was the President, the petitioner was the Secretary and Khushboo was the Trustee and some documents were required to be signed by the deceased in relation to the said society. Also for clearing the dues of the deceased for the period she was working for MDLR, some documents were required to be signed. The said last conversation was about 16 days prior to the incident.

13. Learned senior counsel for the petitioner also submitted that the only evidence against the petitioner is that on 9.3.2012 i.e. much prior to the incident, she accompanied the deceased to Dr. Vishakha Munjal who was already known to the petitioner, and no talk between the deceased and the doctor took place in the presence of the petitioner. Doctor prescribed some medicines on the choice of the deceased. The petitioner had neither suggested to go for MTP nor suggested anything else to the deceased. According to him there is no evidence against the petitioner that she abetted the deceased to commit suicide.

14. Another submission of learned senior counsel for the petitioner is that there is no element of abetment and, therefore, offence u/s 306 IPC is not made out. According to him both the suicide notes are highly doubtful. Both the suicide notes are on both sides of one page of the same note book which was issued by the institution wherefrom the deceased was pursuing MBA. According to him the deceased joined the institution on 25.6.2012 whereas the first suicide note alleged to have been written by the deceased is dated 4.5.2012.

15. It was also submitted that co-accused Chanshivroop Singh was released on bail by the police and deliberately the passport of the said accused was not obtained. The said accused Chanshivroop Singh is Proclaimed Offender. According to him the statement of Chanshivroop Singh recorded u/s 164 of Cr.P.C. is not a substantive piece of evidence, as per provisions of Section 30 of Indian Evidence Act.

16. Learned senior counsel for the petitioner has relied on judgments in Gangula Mohan Reddy Vs. State of Andhra Pradesh, ; Sohan Raj Sharma Vs. State of Haryana, Chitresh Kumar Chopra Vs. State (Govt. of NCT of Delhi), Netai Dutta Vs. State of West Bengal, Madan Mohan Singh Vs. State of Gujarat and Another, Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618; Babu Singh and Others Vs. State of U.P., Mansab Ali Vs. Irsan and Another, ; Gudikanti

Narasimhulu and Others Vs. Public Prosecutor, High Court of Andhra Pradesh, Prahlad Singh Bhati Vs. N.C.T. Delhi and Another, State Vs. Amarmani Tripathi, ; Sanjay Chandra Vs. CBI, Sharad Kumar Vs. CBI, 3 State of Kerala Vs. Raneef, and H.B. Chaturvedi vs. CBI Bail Application No. 572/2010 & Crl.M. (Bail) No. 459/2010.

17. Lastly, learned senior counsel for the petitioner urged that the petitioner is a woman and single parent of her female child aged about 9 years. The parents of the petitioner are old and ailing. Her father has undergone heart surgery and her mother cannot walk without help or support. The petitioner was admitted to interim bail with effect from 2.9.2013 to 15.11.2013 and she did not misuse the liberty of interim bail granted to her.

18. On the other hand, Mr. Sidharth Luthra, learned Additional Solicitor General for the State, submitted that the deceased left the job of MDLR, of which co-accused Gopal Goyal Kanda was the CMD and she went to Dubai. The petitioner went to Dubai and put pressure on the deceased to rejoin the office of MDLR.

19. The investigation unit of Emirates Group Security conducted an investigation and the deceased gave a statement on 11.1.2008 wherein she had stated that due to tremendous pressure and unwanted interference in her personal matters, she decided to step out from the company.

20. Learned ASG for the State also submitted that the deceased left two suicide notes. First suicide note is dated 4.5.2012 and the second suicide note is dated 4.8.2012. In both the suicide notes the deceased has implicated the petitioner as well as co-accused Gopal Goyal Kanda. According to him the chargesheet has already been filed. The first chargesheet was filed on 6.10.2012. The supplementary chargesheet was filed in January, 2013 and the third chargesheet was filed in month of August, 2013 and the charges have been framed, the prosecution evidence is being recorded by the trial court and material witnesses are yet to be examined.

21. It was further submitted that the mother of the deceased, Smt. Anuradha Sharma ad brother of the deceased have made a statement against the petitioner. Moreover co-accused Gopal Goyal Kanda did not challenge the order on charge.

22. Learned ASG for the State also submitted that the statement of co-accused Chanshivroop Singh was recorded u/s 164 Cr.P.C. and he has implicated the petitioner and co-accused Gopal Goyal Kanda. Co-accused Chanshivroop Singh is absconding.

23. According to learned ASG for the State, Section 306 IPC is made out. In support of his submissions, he has relied upon judgments in Praveen Pradhan Vs. State of Uttranchal and Another, ; Ash Mohammad Vs. Shiv Raj Singh @ Lalla Babu and Another, Mehmood Vs. State, Amit Kapoor Vs. Ramesh Chander and Another, Meenu Dewan Vs. State, ; Satish Jaggi Vs. State of Chhattisgarh and

Others,

24. I have considered the judgments relied upon by both the parties. In Praveen Pradhan" case (supra), the petition u/s 482 Cr.P.C. for quashing the FIR was filed, which was rejected by the Hon"ble High Court. The accused of the said case preferred criminal appeal against the same which was also dismissed by the Hon"ble Supreme Court. In Ash Mohammad"s case (supra) it was observed that the period of custody is a relevant factor but simultaneously totality of the circumstances and criminal antecedents are also to be weighed. It was also held that granting of bail is a matter of discretion for the High Courts and this Court should be slow to interfere with such orders. But regard being had to the antecedents of the accused which also to be taken into consideration as per the pronouncement and the nature of the crime committed. In Satish Jaggi"s case (supra) the relevant factors while considering an application for bail have been considered. It was held that the nature of gravity of the offences is primary consideration and the Court cannot go into the question of credibility and desirability of witnesses put forth by the prosecution.

25. In the instant case, according to the case of prosecution the deceased left two suicide notes. The suicide note dated 4.5.2012 reads as under:-

Gopal Goyal is a fraud. He always keep his bad intentions towards girls. He is a man of no shame and no guilt. He always takes advantage of others. He has illegal relationship with a woman named "Ankita" and a girl child also with her. Still he keep on hitting on girls. He is a shameless and worst man I have ever seen in my life. In the name of relationship, trust, God he cheats people and harasses. He always lies. He lies to his family, kids, people around, everyone. Now this time Aruna is also helping him to hurt me, harass me, sabotage my family. She use to act as my well wisher but eventually she has shown her true colors. For the sake of her job she can stoop down to any level. My biggest mistake was I trusted them, which is now costing my life. I will never ever forgive them. They are the one who have separated me today from my mom, dad and bai. I hate them , these two.

Sd/-

(Geetika Sharma)

4.5.2012

and the second suicide note reads as under:

"I"m ending myself today because I"m shattered inside. My trust has been broken and I am being cheated. Two people responsible for my death is Aruna Chadha and Gopal Goyal Kanda. Both of them have broken my trust and misused me for their own benefits. They have ruined my life and now they are trying to sabotage my family members. My family is very innocent. Aruna and Gopal Goyal are liars, cheaters and crook. They can hurt and ruin anyone for their own purpose. I have forgiven them number of times but it was my biggest mistake.

Gopal Goyal before also did hurt me and my family but we still forgave him but he again misused our innocence and trust. He is a cheat, and a fraud man. These two should be punished for their wrong deed and malicious intentions towards me and my family. They have made my life abnormal. I love my mom, dad and my bai.

Sd/-

(Geetika Sharma)

4.8.2012

26. At this juncture it may be mentioned that it is not appropriate to discuss the merits of the case as to whether offence u/s 306 IPC is made out or not from the above suicide notes allegedly written by the deceased.

27. The petitioner is in judicial custody since 8.8.2012 except the period of interim bail with effect from 2.9.2013 to 15.11.2013. The petitioner is a woman and single mother of a female child aged about 9 years. The parents of the petitioner are old and ailing. The education of the daughter of the petitioner is suffering and there is no other person to look after the female child. Further, the petitioner was only an employee of MDLR.

28. Keeping in view the facts and circumstances of the case, the fact that the petitioner is a woman and single parent of a nine years old female child, both her parents are old and ailing and order dated 22.4.2013 passed by Hon"ble Supreme Court in CrIMP. No. 8750/2013 in my view, the petitioner is entitled to bail. The petitioner, Aruna Chadha be released on bail on furnishing personal bond in the sum of Rs. 1.00 lakh (Rupees one lakh) with two sureties of the like amount to the satisfaction of the learned trial court, subject to the condition that she will not leave the country without prior permission of the trial court and shall not try to influence the prosecution witnesses in any manner.

29. Needless to say that nothing stated herein above shall amount to expression of opinion on merits of the case. Since, at this stage application of co-accused Gopal Goyal Kanda is not before this Court, therefore, his application has to be seen on its own merits as and when the same would be filed. The application stands disposed of.