
(2016) 01 DEL CK 0326

In the Delhi High Court

Case No : Crl. M.C. 4523/2014, 413/2015, Crl. M.A. No. 1627/2015, Crl. M.C. 1640/2015 & Crl. M.A. No. 5951/2015

Central Bureau of Investigation

APPELLANT

Vs

Raja Bhattacharya and Others

RESPONDENT

Date of Decision : 14-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439(2), Section 482

Citation : (2016) 228 DLT 2

Hon'ble Judges : S.P. Garg, J.

Bench : Single Bench

Advocate : Abhishek Chauhan, Advocate and Sonia Mathur, Standing Counsel, for the Appellant;

Final Decision : Dismissed

Judgement

S.P. Garg, J.—1. The instant petitions under Section 439(2) read with Section 482 Cr.P.C. have been filed by the petitioner / CBI for cancellation of bail granted to the respondents on 03.07.2014, 08.12.2014 and 18.02.2014 by the learned Addl. Sessions Judge. These are contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file. As per the prosecution case, in the evening of 14.03.2012 a search was conducted by the Investigating Officer along with other staff at the premises of respondent - Ajay Chaudhary at WA- 82, 2nd floor, Shakarpur, Delhi. Ajay Chaudhary @ Ajay, Imtiaz Ali and one Renu Sharma were arrested from there. Victim - child "R" (assumed name) was rescued from there by the Anti-Human Trafficking Unit of CBI. Ajay Chaudhary was allegedly running brothel from the said premises. "R" disclosed during investigation that she was brought to Delhi from Kolkatta on the pretext to provide her job. At Delhi, she was repeatedly sexually assaulted by the accused persons and their customers for monetary consideration. She was forced to have sex with eight to ten customers daily and the respondents used to mint money from her exploitation. She was forced to

consume liquor and drugs and was also severely beaten. The prosecution was able to arrest fifteen such traffickers during investigation. Upon investigation, a charge-sheet was filed against the respondents and vide order dated 15.03.2014, they were charged.

Learned counsel for the petitioner urged that the bail granted to the respondents in a very serious offence is liable to be cancelled. The Trial Court did not appreciate that the victim had substantiated her allegations in her deposition against the respondents. Many material prosecution witnesses remain to be examined. There is every possibility of the respondents to temper with the evidence. The Trial Court committed error in analyzing the evidence on merits. The evidence of a witness should be read in its totality and not in isolation. The case is still at its initial stage. Reliance has been placed on "CBI vs. Birendra Kumar Singh", CrI.M.C.4444/2013; "Satish Jaggi vs. State of Chhattisgarh & ors.", , (2007) 11 SCC 195; "CBI vs. V.Vijay Sai Reddy", , (2013) 7 SCC 452; "Ash Mohammed vs. Shiv Raj Singh", 2013 (9) SCALE 165; "Neeru Yadav vs. State of U.P. & Anr.", , 2014 (14) SCALE 59; "Dr.Narendra K.Amin vs. State of Gujarat", , 2008 (13) SCC 584 and "state of U.P. vs. Amarmani Tripathi", , 2005 (8) SCC 21.

3. Refuting the contentions, learned counsel for the respondents urged that there is no illegality or material irregularity in the grant of bail.

4. It is a matter of record that FIR was registered under various offences on 02.05.2012 by the Anti-Human Trafficking Unit of the petitioner. Respondents Ajay Chaudhary, Imtiaz Ali and Renu Sharma were arrested on 15.03.2012. Upon completion of the investigation, a charge-sheet has already been filed. Statements of the prosecutrix "R" has been recorded on various dates in detail. The respondents were in custody since long for various durations. Admittedly, there is no involvement of the respondents in any other criminal case and they are not previous convicts. There is controversy regarding the exact age of the prosecutrix. It is informed that as per ossification report, her age has been estimated to be 17 - 18 years. Admittedly, she had married respondent Raja Bhattacharya and had remained in her company for sufficient duration; she even became pregnant from him. After the grant of bail vide order dated 08.12.2012, all the respondents except Ajay Chaudhary got release orders and continued to be on bail. Only respondent Raja Bhattacharya continued to be in custody due to status quo order dated 01.10.2014 of this Court as he was unable to furnish the surety bond promptly. Vide order dated 22.05.2015, stay order dated 01.10.2014 against the release of the respondent Raja Bhattacharya was vacated. It appears that the said order has not been challenged by the petitioner.

5. It is true that this Court had cancelled the bail qua Birendra Kumar Singh in CrI.M.C.4444/2013 vide order dated 29.11.2013. It is now informed that the said accused has since been granted regular bail.

6. The respondents have remained in custody for sufficient durations in this case.

Comprehensive statement of the prosecutrix has since been recorded. The respondents are not previous convicts and are not involved in any other criminal case. There are no allegations that after release, they had tempered with evidence in any manner or misused the liberty. The petitioner has filed a long list of more than 100 witnesses and trial is expected to take long time. The respondents cannot be held in custody in perpetuity. The Trial Court has given detailed reasons in the impugned order granting regular bail to them. Certain conditions were also imposed by the Trial Court while granting bail.

7. Considering the facts and circumstances of the case, I find no sufficient reason for cancellation of bail granted to the respondents by a reasoned order. The petitions are dismissed. Pending applications also stand disposed of.

8. Trial Court record (if any) be sent back forthwith with the copy of the order.