(2020) 02 DEL CK 0621

In the Delhi High Court

Case No : Bail Application No. 3130 Of 2019

Deepak APPELLANT

Vs

State (Govt Of Nct Of Delhi) RESPONDENT

Date of Decision : 06-02-2020

Acts Referred:
Indian Penal Code, 1860 — Section 34, 306, 385, 419
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2020) 02 DEL CK 0621

Hon'ble Judges : Brijesh Sethi, J

Bench : Single Bench

Advocate : D K Singh, Anjani Kumar Singh

Final Decision : Dismissed

Judgement

Brijesh Sethi, J

1. Vide this order I shall dispose of a bail application filed u/s. 439 CrPC by the petitioner Deepak in FIR No. 364/2019 u/s. 306/385/419/34 IPC, P.S. Fatehpur Beri.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. The petitioner was arrested on 02.10.2019 and since then he has been in jail.

3. The allegations in the FIR dated 28.09.2019 lodged by Ms. Manisha, wife of the deceased runs as under :-

(a) The "deceased Lalit Kumar sold his Motor Cycle No DL-3SCV-0162 to Mr. Vakil Khan s/o. Abdul Aziz r/o. B-288 Ambedkar Colony, Chhatarpur, Delhi at the price of Rs. 13,000/on 02.08.2019. After that, Vakil Khan sold the said Motor Cycle to Mr. Deepak (the petitioner).

(b) On 06.09.2019 the deceased Lalit received a phone call from mobile no. 9899406347 from someone, who identified himself as Bheem Singh and claimed to be a police official from RS. Timarpur, Delhi. The said Bheem Singh informed the deceased that the above said Motor cycle, which Deepak had, was stolen and Deepak had had an accident with a lady from the said bike. Bheem Singh threatened the deceased Lalit and demanded an amount of Rs. 25,000/in lieu of the above said Motor Cycle.

(c) After that, the deceased transferred 25,000/- in the account of Deepak and took back the custody of the said Motor Cycle with him. After that, the said Deepak and Bheem Singh repeatedly called my husband (the deceased Lalit) from their Mobile Numbers 9899406347 and 9711535369 and made further demand and took the sum of Rs. 60,000/for the treatment of the said injured lady.

(d) Again, they demanded the sum of Rs.2 Lakh 40 thousand by saying that the said lady had expired. That both Deepak and Bheem Singh extorted the sum of Rs.4 lakhs from the deceased and kept torturing him. The deceased was fed up with their persistent demands and on 25.09.2019 he committed suicide by hanging himself from the ceiling with chunni."

4. It is submitted that the police filed the charge-sheet on 03.12.2019 before the Ld. MM., Saket District Court, New Delhi. It is alleged that as per the Charge-Sheet, the deceased had lodged a complaint on 18.09.2019 with the same police station (Fatehpur Beri) against the petitioner regarding his demands. The police took no action in view of the lesser gravity of the allegations in the said complaint, which could not have caused such tremendous pressure upon the deceased which would have compelled him to commit suicide.

5. It is alleged that the petitioner had purchased the said motor cycle from Vakil Khan for a sum of Rs.25,000/- through an ad on OLX social media. On the portal of OLX, the motor cycle looked in good condition and, thus, the petitioner had purchased it. Vakil Khan had told him that the RC would be provided by the deceased Lalit. However, it was discovered that the said motor cycle was not in a good working condition and the petitioner complained to Vakil Khan and asked for refund of the price of Rs.25,000/ -. Thereupon Vakil Khan gave the contact number of the deceased Lalit for return of the said motor cycle and refund of amount. Vakil Khan is an automobiles mechanic, who does make-over for the purpose of selling vehicles.

6. It is alleged that on coming into contact with the petitioner, the deceased developed a rapprochement with the petitioner for availing further loans from the market. The deceased Lalit discussed his problems with the petitioner regarding the burden of old loans availed by him. The deceased sought the help of the petitioner/accused for availing further loans as no Bank was giving him any loan to set off his earlier loans.

7. It is alleged that the deceased had also discussed with the petitioner about the squabbles with his wife on account of the frequent visits at home made by the recovery-agents of the Banks/financial institutions for recovery of the old loans.

The deceased was so disappointed and fed up with the daily fights and arguments at home due to which he had, sometimes, to leave his own house and to sleep in neighbors" house. Wife of the deceased was also threatening him to file false matrimonial disputes cases against him, which made his depressing condition worse.

8. It is alleged that the petitioner assured to help deceased in obtaining loans from private financers but subject to charging Rs. 5000/- as commission and the deceased had readily agreed to the same. The deceased had agreed to take back his motorcycle on making payment of Rs.25,000/- and a sum of Rs.50,000/- for availing new loans.

9. It is further alleged that pursuant to their understanding, the deceased Lalit had transferred a sum of Rs.60,000/- into the account of the petitioner and the remaining amount of Rs.15,000/- was yet to be paid by him. However, the deceased Lalit was making requests to the petitioner to get him a loan for Rs.10 lakhs and on disbursal of the loans he would pay the remaining commission of Rs.15,000/- but the petitioner had declined his request.

10. It is further alleged that the petitioner was expecting the payment of remaining amount and was totally unaware of the fact that the deceased Lalit had committed suicide on 25.09.2019. He came to know of the unfortunate incident only on 02.10.2019 through the police, who approached him for his arrest.

11. Ld. Counsel for the petitioner has submitted that the police has completed investigation and filed the Charge-Sheet before Ld. MM on 03.12.2019 and same is listed for committal to the Session"s Court. No further investigation is therefore required in the present matter.

12. It is further submitted that the FIR was registered on the complaint of Ms. Manisha, wife of Lalit Kumar (deceased). The above complainant always quarreled with the deceased who was her husband and also threatened the deceased for filing false case of dowry demand against him. The deceased lived separately from the Complainant Manisha and due to the fear of false implication in dowry demand case, he was in depression and he took an extreme step i.e. of committing suicide.

13. It is submitted that the deceased was doing a private job in Swiggy and was unable to fulfill his wife"s extravagant demands and for this his wife always kept taunting him. He borrowed a lot of loan from the society and friend circle and it became a heavy burden on him and due to this he took the unfortunate decision of committing suicide.

14. It is further submitted that the deceased had taken a personal loan from the bank and he was unable to repay the loan. The bank officials always kept visiting house of the deceased and this was the main reason for his depression.

15. The petitioner preferred bail application which was dismissed by Ld. ASJ,

Saket Courts, Delhi vide order dated 11.12.2019. It is submitted that Ld. ASJ has committed error by getting swayed by the transaction of transfer of Rs.60,300/- into the petitioner"s account. It is matter of trial and the petitioner will prove that the said transfer does not pertain to any extortion or mental cruelty, which can abet the commission of suicide.

16. It is further submitted that the Ld. ASJ has not considered the fact that the deceased had taken a personal loan from the bank and he was unable to repay the loan. The bank officials always kept visiting house of the deceased and this was the main reason for his depression, which compelled him to commit suicide. It is, therefore, prayed that petitioner be released on bail in the interest of justice.

17. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. He has, therefore prayed for dismissal of the bail application.

18. I have considered the rival submissions. The present case has been registered on complaint of Ms. Manisha w/o. Lalit Kumar R/o H.No. 184, New Manglapuri, Delhi. She alleged that her husband Lalit sold his motorcycle to a person namely Vakil Khan for Rs. 15,000/-. Later on Vakil Khan sold it further to petitioner Deepak for Rs. 25,000/-. Deepak committed an accident with said motorcycle. One day deceased Lalit received a call from one person namely Bheem Singh who was identified himself as a policeman. He threatened Lalit over the phone and said that Deepak had committed an accident with the said motorcycle. Bheem Singh asked him to pay Rs. 25,000/- and to take back the said motorcycle. Deepak and Bheem Singh extorted her husband by threatening that the lady received serious injuries due to the said accident. Her husband Lalit was going through this tension and he, therefore, committed suicide.

19. During the course of investigation, it was revealed that the deceased Lalit Kumar had also filed a written complaint vide DD No. 38B dated 18.09.19. He had alleged that he had sold his motocycle No. DL SSCV 0162 to Vakil Khan for a sum of Rs. 13,000/- on 02.08.19 through a showroom manager. Later on, he received a call on 06.09.19 from person namely Bheem Singh who had identified himself as policeman from Timarpur police station. He had threatened him and told him that the motorcycle sold by him was a stolen one. He also stated that Deepak committed an accident with the said motorcycle and injured an old lady. Bheem Singh had asked him to pay Rs. 25,000/- and to take back the said motorcycle. Deepak and Bheem Singh extorted Rs. 60,300/- form him by threatening him and stating that the lady has received serious injuries due to the said accident. He submitted that they are still demanding money and threatening on the pretext that the said old lady has expired in the hospital.

20. During the course of further investigation, accused Deepak Kumar was arrested and interrogated. He disclosed that he was the person who had threatened the deceased by impersonating himself as Bheem Singh (Police

Person). Call detail record of the petitioner and the deceased were obtained during the course of further investigation, section 385/419 IPC were invoked in the case.

21. Perusal of the facts thus reveals that the offence committed by the petitioner Deepak Kumar is grave and serious in nature. Statement of Vakil Khan has been recorded wherein he has verified the allegations levelled by the deceased and his wife. He also provided the account number of alleged Deepak. Vakil Khan has verified that Deepak and Bheem Singh extorted money from Lalit Kumar by threatening that the lady had sustained serious injuries due to the accident.

22. During the course of further verification ?Account Transaction Statement" of the petitioner was obtained from Standard Chartered Bank and on scrutiny, it revealed that deceased Lalit Kumar transferred/deposited money in the said account several times from 06.09.2019 to 24.09.2019.

23. In view of above allegations appearing on record and keeping in mind the role of the petitioner, no grounds for grant of bail are made out at this stage. The bail application is, therefore, dismissed.

