

(2015) 11 DEL CK 0269
In the Delhi High Court
Case No : Bail Appln. No. 2333/2015

Punita Makkar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 30-11-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 120-B, 419, 420, 467, 468

Citation : (2016) 1 JCC 255

Hon'ble Judges : Suresh Kait, J.

Bench : Single Bench

Advocate : Vijay Kumar Aggarwal and Neeraj Kumar Jha, Advocates, for the Appellant; Hirein Sharma, Additional Public Prosecutor and Ritesh, Inspector, Crime Branch, for the Respondent

Final Decision : Dismissed

Judgement

Suresh Kait, J.—By way of the present petition under Section 439 of the Code of Criminal Procedure, 1973, petitioner seeks directions to release him on bail in case FIR No. 41/2015 registered at Police Station Crime Branch, Delhi, for the offences punishable under Sections 419 /420 /467 /468 /471 /120-B of the Indian Penal Code, 1860.

2. Learned counsel appearing on behalf of petitioner submitted that the chargesheet has been filed against the petitioner and in the said chargesheet it is stated that FSL result is awaited as specimen handwriting of accused persons and seized documents are being sent to FSL for handwriting comparison. Various reports regarding verification of birth certificates and Voter I-cards used for admission are still awaited and the outcome will be filed through the supplementary chargesheet.

3. Learned counsel further submitted that the petitioner is in custody since 10.07.2015. The trial will take its time as the police may file the supplementary chargesheet against the other accused, therefore, till the supplementary

chargesheet is filed, the trial will not proceed further.

4. He further submitted that in the present case, the parents and schools were the beneficiaries and at best, without admitting, the petitioner might have received a peanut out of the amount received. He submitted that daughter of the petitioner had already been released on bail, however, her husband is still in custody.

5. In support of his contentions, learned counsel for the petitioner has relied upon the cases of State of Kerala Vs. Raneef, and Suresh Kalmadi Vs. CBI, .

6. He submitted that even for the heinous offences, the accused therein were released on bail. However, case against the petitioner is triable by the Magistrate; therefore, the petitioner cannot be kept in jail for an unlimited period. Moreover, the investigation is already complete, chargesheet has been filed against the petitioner and there is no apprehension of influencing the witnesses or tempering with the evidence by the petitioner.

7. As per the prosecution case, the present case has been registered as there was nexus of some persons who were getting students admitted under EWS Category with the help of fake EWS Certificates/Caste Certificates. During the course of investigation, verification of EWS Certificates of students, who got admissions in various schools in EWS Quota was got conducted and it was revealed that there are more than 290 cases pertaining to various schools wherein the admissions were taken by the students in EWS category. During the interrogation of parents of children, whose admissions were found on the basis of fake documents at various schools, as well as the school staff and others, it was further revealed that names of the petitioner, her husband and their daughter were also surfaced and that they were running a syndicate, which is involved in getting admissions on the basis of fake EWS Certificates and other documents in lieu of hefty amount. The petitioner, her husband and their daughter have disclosed in their statements that they got prepared fake documents through one Dharam Singh @ Ballan and further used the same for getting admission in EWS category.

8. During the course of investigation, they were found to be involved in more than 30 cases of admissions procured on the basis of fake and forged documents. They even got admitted some children in the identity of other children whose names were appeared in the final list of schools under EWS Quota. Thereafter, the child's name and his parentage would get change through filing various affidavits as to give their misdeeds in legal shape.

9. It is pertinent to mention here that FIR in the present case was registered on the basis of such admissions in which one Khushi daughter of Neeraj was found to get admission in two schools and the birth certificate and other details furnished in both the admissions were found to be same. Later, names of the children were also found to be got changed in both the schools. On investigation of the parents of the children, they disclosed to have procured admissions

through the petitioner, her husband and their daughter.

10. The allegations against the petitioner are that while applying at the schools for admissions, the petitioner used to give mobile numbers of herself, her daughter Kajal, husband Prince, sister Indu, mother Geeta Devi, nephew Anil, niece Niharika and other family members on the EWS registration forms. This fact is evident from the application forms of various children, who got admitted through the petitioner. She got recovered three handsets, which were used by her for admissions. She used to apply for one child in various schools. While applying, she used to keep in mind the eligibility criteria regarding EWS, i.e., distance, income etc. and accordingly, she got prepared fake documents and enclosed the same with the application forms according to the school. Once the child gets admission in one school and become eligible for other schools, she utilizes this opportunity and gets admit other children, with other name and parentage in these schools with the assurance to the parents that later on particulars will be changed to his/her real name.

11. It is disclosed by the petitioner that in order to increase the probability of a child in draw system, she used to file the applications of the children as twins. She even got successful in getting admission of some children in Springdale School, Dhaula Kuan. However, due to the policy of the school that in case of twins both the children will be admitted, as such in order to evade this condition, the petitioner impersonated herself as mother of child Ridhit Vij and claimed that twin brother of Ridhit Vij, i.e., Vidhit Vij is suffering from Tuberculosis and even submitted a certificate issued by a Doctor. This fact has been verified by Dr. Sunil Kumar Soni, who had issued the said certificate. Said Doctor disclosed that the petitioner and her husband approached him by claiming that one child of her friend is suffering from respiratory diseases and she required medical certificate to be submitted in the school urgently. Believing her statement to be true, the said Doctor issued the certificate to the petitioner in good faith.

12. In addition to above, Voter I-cards and birth certificates, which were recovered from the house of the petitioner were also got verified from the concerned officers and were found to be fake.

13. So far as the submission that other co-accused Kajal, i.e., daughter of the petitioner, has already been released on bail is concerned, it is pertinent to note that the said accused was released on bail without expressing any opinion regarding the allegations against her. While granting the bail to her vide order dated 17.08.2015, the learned Additional Sessions Judge/Special Judge (NDPS), Delhi, observed as under:--

"The undisputed fact is that applicant is a young girl aged around 20 yrs. and has now been in custody since 07-07-2015. Without going into merits of allegations against the applicant, as applicant is a young girl who has now been in custody since 07-07-15, applicant is ordered to be released on bail on furnishing personal bond in the sum of Rs. 10,000/- alongwith two sureties of like amount to the

satisfaction of Id.MM/Link MM/DMM. Applicant is further directed to not to leave NCR of Delhi without seeking prior permission from Id.MM concerned and is further directed to join investigation as and when called upon to do so in accordance with law."

14. On perusal of the said order, it is established that while granting the bail to said co-accused, the learned Judge had not gone into the merits of the allegations against her and only considered her young age.

15. In view of the aforementioned facts, it is established that the petitioner had played an active role in the conspiracy of fake EWS admissions and that their network had been spreading over all around Delhi. Even to procure admissions, the petitioner had impersonated herself as mother/guardian of some children and had appeared before some school Authorities accordingly. Moreover, investigation of the case is still continuing with several other parents. The petitioner is a member of a racket, which is operating in Delhi at a large scale and involved in various fake admissions under EWS category and had cheated the public at large. Moreover, by this modus operandi adopted by the petitioner and other syndicate members, the genuine students falling under EWS category have been deprived of getting admissions in the schools under EWS quota. It is not out of place to mention here that the petitioner is a very influential person and if she is released on bail, there is every possibility of her hampering the investigation of the case and influencing or threatening the witnesses.

16. Accordingly, I do not find any merit in the instant petition. The same is dismissed accordingly.