
(2005) 02 DEL CK 0102
In the Delhi High Court
Case No : Bail Appln 1071 of 2004

Sarvesh Kumar Prajapati

APPELLANT

Vs

The State (N.C.T. of Delhi)

RESPONDENT

Date of Decision : 17-02-2005

Acts Referred:

Citation : (2005) 117 DLT 667 : (2005) 80 DRJ 713

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Jitender Sethi, for the Appellant; Pawan Sharma, for the Respondent

Judgement

Badar Durrez Ahmed, J.—The learned counsel for the petitioner submitted that the prosecution's case is that on 23.11.2000, one Mr M.C. Mahajan was abducted and on 14.12.2000, he returned on his own. The prosecution's case further is that a demand for a ransom for a sum of Rs.2 crores was made and it was paid by the friends and associates of Mr Mahajan. The petitioner and six other persons were arrested on 12.02.2001 at Lucknow. The learned counsel for the petitioner submits that at the time of arrest and thereafter the photographs and descriptions of the petitioner and the other persons who were arrested were flashed on newspapers and the television networks. The learned counsel for the petitioner has submitted that the co-accused Sanjay has been granted bail and he has accordingly drawn my attention to the order of grant of bail to the co-accused Sanjay which is at page 33 of the paper book which reads as under:-

"Heard on the bail application. The complainant had identified the accused Sanjay Gupta in the office of Special Cell on 4-3-2001 and he had not been assigned any role. So Sanjay Gupta is directed to be released on bail on furnishing a personal bond of Rs.15,000/- and a surety of the like amount."

2. However, on the same date, i.e., on 19.05.2004, the petitioner's application for bail was rejected. The learned counsel submits that the case against Sarvesh and that against Sanjay is virtually identical. Thus, according to him, while

Sanjay was granted bail, the petitioner should also be granted bail.

3. The learned counsel for the State opposed the grant of bail to the present petitioner and attempted to show that the case of Sarvesh, i.e., the present petitioner, was quite different from that of Sanjay. In this connection, the evidence of M.C. Mahajan (PW-1) was brought to my attention. In the examination-in-chief of the said witness, it appears that just as in the case of Sarvesh (the petitioner herein), in the case of Sanjay also, the said witness had identified him in the Special Staff Office as also in court. However, these statements were made as identifying Sanjay Gupta and Sarvesh by name. At the same time, the learned counsel for the petitioner pointed to the portion in the examination-in-chief where the said witness has categorically stated that Along with the accused Alim Khan, 4/5 persons rushed into the house and that all of them were armed with pistols. He further stated that "Those 4/5 persons are not present among the accused persons".

4. According to the learned counsel for the petitioner, this clearly demonstrates that the petitioner, who was identified by name and who was present in court was not identified as one of the accused persons. He has argued this case entirely on the ground of parity with that of the co-accused Sanjay.

5. Having considered the arguments of the learned counsel for the parties, I see no reason as to why, when bail was granted to Sanjay, bail ought not to be granted to the present petitioner. Accordingly, he is directed to be released on bail on furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the trial court concerned.

The application stands disposed of.