
(2005) 04 DEL CK 0095

In the Delhi High Court

Case No : Bail Application 734 of 2005

Sidharth Vashisth @ Manu Sharma

APPELLANT

Vs

State of Delhi

RESPONDENT

Date of Decision : 12-04-2005

Acts Referred:

Citation : (2005) 04 DEL CK 0095

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : R.K. Naseem, Harish Ghai and Sanjiv Kr. Manan, for the Appellant;
S.K. Saxena, SPP and Praveen Sharma and K.K. Jha, for the Respondent

Judgement

Badar Durrez Ahmed, J.—The learned counsel for the petitioner submitted that the petitioner has been in custody for a total period of about four years and at the same time he has been granted interim bail from time to time extending to a total period of approximately two years and four months. He further submitted, after pointing out various orders passed by this court while granting interim bail to the petitioner, that the petitioner has not misused the facility of interim bail and has not caused any delay in the progress of the trial. He referred to the order dated 2.2.2002, a copy whereof is placed at page 44 of the paper book and, particularly, to the following portion:-

"There is no allegation that the petitioner has misused liberty of interim bail or has tried to interfere with the trial in any manner whatsoever."

2. The learned counsel also referred to the order dated 25.03.2003, a copy whereof is placed at page 45 of the paper book wherein a similar observation is made in the order while extending the interim bail. He submitted that initially the petitioner had been taken into custody on 06.05.1999 and had remained in custody till 28.01.2002 when, by an order dated 25.01.2002 passed by this court, he was granted interim bail for a period of six weeks, which period was extended from time to time up to 11.11.2003 when further extension was not

permitted by an order of this court dated 11.11.2003. At that stage, the learned counsel for the petitioner pointed out that one public witness was yet to be examined and the prosecution expressed its view that the public witness was not coming forward and may be influenced by the present petitioner and, Therefore, it was necessary for the petitioner to be once again taken into judicial custody. The learned counsel for the petitioner submitted that thereafter the petitioner was taken into judicial custody and remained so up to 15.10.2004 when once again by an order of the same date he had been granted interim bail initially for a period of 90 days which was extended on 14.01.2005. The learned counsel for the petitioner submits that, while the petitioner was in custody, the prosecution closed its evidence sometime in August 2004. It is only thereafter, according to the learned counsel for the petitioner, that interim bail was granted by this court on 15.10.2003 once again.

3. The present application has been moved for regular bail. The grounds urged by the learned counsel for the petitioner are that the petitioner has at all times complied with the directions given by this court from time to time. He further submits that the petitioner has neither misused the liberty granted by this court nor has he caused any delay in the progress of the trial. He further submits that now there is no question of tampering with the prosecution evidence as the prosecution evidence has been closed and the trial is at the stage of defense evidence. He further submits that the petitioner has roots in the society and is an income tax assessed and there is no likelihood of his absconding. He also referred to the merits of the matter inasmuch as he submitted that three eye witnesses PW2 (Shyan Munshi), PW3 (Shiv Dass) and PW4 (Karan Rajput) have already been declared hostile. He further submitted that while it is the prosecution's case that one person used one weapon and fired two shots, this has been negated by the opinion and report of the Ballistic Expert which indicates that two weapons were used to fire the two shots as could be gathered from the two empty shells recovered at the spot.

4. The learned counsel for the State opposed the grant of bail on the ground that although the eye witnesses have declared hostile and a Ballistic Expert (PW95) has also been declared hostile, there are still circumstances to indicate the presence of the present petitioner at the spot as indicated in the statement of PW1 (Deepak Bhojani), PW6 (Nalini Ramani), PW20 (Beena Ramani) and PW24 (George Mailhood). He further indicated that the licensed weapon of the petitioner which was allegedly used for the firing of the shots has also not been recovered.

5. The learned counsel for the petitioner further submitted that these circumstances would not be of any consequence inasmuch as the eye witnesses have been declared hostile and the Ballistic Expert has also opined otherwise. He further submitted that the petitioner did not have any previous criminal history and there is no likelihood of his absconding or misusing the facility of bail.

6. Without going into the merits of the matter which is the subject matter of

trial, it does appear that once the petitioner has been on interim bail for different periods amounting to a total of two years and four months and has not misused the same, there is no reason as to why bail ought to be refused to him at this stage, particularly, when the prosecution evidence has been closed and there is no possibility of the petitioner tampering with the evidence or influencing any of the witnesses.

7. In this view of the matter, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount to the satisfaction of the concerned court subject to the condition that the petitioner shall surrender one day immediately preceding the date fixed for judgment and subject to a further condition that, in case, his passport is not already surrendered with the trial court, the petitioner shall immediately, at the time of release, surrender the passport to the trial court and it shall remain in the custody of the trial court till the conclusion of the trial. The petitioner shall, accordingly, not leave the territory of India without permission of the trial court.

8. The application stands disposed of.

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