

(1971) 06 P&H CK 0001
In the Punjab And Haryana At Chandigarh

State (On behalf of the Court)	Vs	APPELLANT
Ajit Singh Jawhar Singh		RESPONDENT

Date of Decision : 14-06-1971

Acts Referred:

Citation : (1971) CriLJ 1814 : (1973) 2 ILR (P&H) 525

Hon'ble Judges : S.S. Sandhawalia, J

Bench : Single Bench

Judgement

S.S. Sandhawalia, J.—Mr. Justice B, S. Dhillon whilst dealing with Criminal Miscellaneous No. 502-M of 1971 being a petition for bail on behalf of Jai Gopal and Karnail Singh noticed that the respondent Ajit Singh, who is the main accused in a serious murder case, had already been released on bail by the Court of Session. Amritsar, Obvious-ly not satisfied with the grant of bail to the main accused in a notorious double murder case, the learned Judge was pleased to send for the papers and the file relating to the same from the Court of Session. Amritsar. On examining the said record and discovery of unsatisfactory features, Dhillon, J. ordered the issue of notice to the respondent Ajit (Singh as to why the bail granted to him by the Court of Session be not cancelled forthwith. Since the bail had been granted primarily on medical grounds, the learned Judge also directed to summon Dr. R. L. Mahaian. Medical Officer. Central Jail. Amritsar. on the basis of whose report the respondent had been released.

2. After due service on the parties, the matter came up before Dhillon. J. on May 27. 1971, and on that date, the statement of Dr. R, L. Mahajan was recorded in Court and he was cross-examined both by the Assistant Advocate-General and Mr. M. L. Nanda. learned Counsel for respondent Ajit Singh. Thereafter on the same day. Dhillon J- recorded an order that the respondent should, be got medically examined from a Specialist in the P. G. I.. Chandigarh, and a report be called for. The respondent was given full opportunity to produce any other relevant record or material which he may wish to produce before the doctor. In pursuance of the abovesaid order. Dr. Berry on examining the respondent has

forwarded his report dated June 2, 1971.

3. At the outset it deserves notice that Ajit Singh respondent stands implicated in a double murder case in which the prosecution allegation against him disclosed a planned and designed case of abduction and subsequently killing of at least two persons along the Indo-Pakistan Border.

4. Mr. K. S. Tiwana. the then Sessions Judge, Amritsar, in his order dated January 14, 1971 whilst declining bail to 9 accused persons in a case, which is known as Gharinda Murder Case, has noticed that on the prosecution allegation, the respondent Ajit Singh is a notorious smuggler operating along the Indo-Pakistan Border. One Puran Singh used to act as a carrier for him. The further allegation is that on account of certain difference between the respondent and Pufan Sineh deceased over the spoils of smuggling, a large body of persons wielding fire-arms bodily lifted Hardeep Singh and Kartar Singh deceased and one Shanaara Singh from Crystal Chowk. which is a busy and crowded locality in the town of Amritsar. and forcibly abducted them in motor vehicles. Later the two deceased Kartar Singh and Hardeep Singh were last seen in the house of the respondent and subsequently were taken in the vicinity of the Indo-Pakistan Border and murdered there. For the abovesaid reasons, Shri K. S. Tiwana. the then learned Sessions Judge, Amritsar, by his order dated January 14, 1971 had declined bail to the other 9 persons implicated in the said murder charge. From the record of the Sessions Court. Amritsar. it appears that on March 24. 1971, a cryptic bail application was moved on behalf of the respondent Ajit Singh which did not make the slightest reference to the circumstances of the case and prayed for release on medical Grounds. This came up before the learned Sessions Judge. Amritsar. on March 30. 1971 and it is expressly recorded that the petition was not pressed on merits but solely on medical grounds. Consequently, a report was called for from the doctor in-charge of Central Jail. Amritsar, regarding the condition of Ajit Singh respondent. A report was submitted by Jail Doctor and acting on the same, the learned Sessions Judge by his order dated April 19, 1971. ordered the release of the respondent on his furnishing bail-bond in the sum of R\$. 15,000/- with two sureties in the like amount each pending commitment proceedings. A reference to the order of the learned Sessions Judge of the said date would show that apart from a cryptic line, no reference whatsoever was made to the merits or circumstances of the case. He had merely noticed that it has been reported that the petitioner was 70 years old and has been taking treatment both in the V. J. Hospital and Jail Hospital for pain in renal region. It was further noticed that the respondent had been reported to be suffering from cardiac-neurosis.

5. The grant of bail to the respondent Ajit Singh in the present case smacks of certain unsavoury features. The case (F.I.R. No. 178) against him was recorded as early as July 17. 1970 at Police-station Gharinda. The record does not disclose whether the respondent moved any application earlier than March 24, 1971 complaining of ill-health or on medical grounds or even on merits prior to the

date abovesaid. Significantly the application above-noticed scrupulously attempted to avoid any reference to the facts and circumstances of the case.

6. The learned Counsel for Ajit Singh respondent expressly abandoned all claims on merits and pressed the application only on medical grounds. The learned Sessions Judge -whilst granting the bail on April 19, 1971 again avoided any reference to the seriousness of the charge against the petitioner or the facts and circumstances of the case in general. The report of the jail doctor on which primarily the release of the respondent was based, appears to be a tell-tale document in view of the evidence given by its author in this Court. Dr. R. L. Mahajan stated that Ajit Singh respondent was never admitted though there is a dispensary in the Central Jail at Amritsar having beds for the indoor patients. The respondent had merely come to him in the Jail Dispensary on January 28, 1971, and complained of severe pain in his stomach. Regarding the heart ailment, which primarily appears to be the basis for the release on medical grounds, this witness had the following words to say:

I mentioned in paragraph 4 of my report that Ajit Singh accused was suffering from cardiac neurosis, which is a psychic disease, not from any record but since the accused Ajit Singh was complaining of this, therefore, I said so in the report. I did not note as to who were the doctors who made the diagnosis of the disease either at the V. J. Hospital, Amritsar, or at the P. G. I. Chandigarh, or at the Civil Hospital, Ambala.

The witness had further admitted that the record of the P. G. I. had merely shown a urinary tract infection regarding the respondent. Further he had admitted that the record of the V. J. Hospital, Amritsar, was not of any specialist doctor but was of the general ward. He further could not say as to in which year the diagnosis in Question was made. In cross-examination, this witness stated that the last date on which the respondent Ajit Singh had visited jail dispensary was March 16, 1971. The witness could not deny the fact that the respondent was lodged in Amritsar Jail on October 10, 1970. In his report Exhibit C W. 1/1, the witness had noticed that respondent Ajit Singh was moderately built and nourished and his age was recorded as 70 years. It was also mentioned that the respondent complained of pain in the right renal area for which he had been treated both in the V, J. Hospital and the Jail Hospital. Lastly it was also stated by him that the respondent was suffering from cardiac neurosis which, according to the witness, was due to the strain of confinement into the jail and continuous ailment.

7. Dr. J. N. Berry, M. D. Professor of Medicine (Cardiology) in the Post-Graduate Institute, after examining the documents produced by the respondent Ajit Singh before him, noticed as follows:

Physical examination showed him to be a well built muscular old man. His apex beat was just palpable on standing 9 cms. from the midline. trachea was central and heart sounds were normal and pure. B. P. was 210/110 mm Hg. Fundi

showed normal blood vessels. Skiagram chest brought by him and dated 8-5-71 confirmed normal size and shape of the heart. His resting E. C. G. showed a frontal QRS axis of -40. He could take 18 steps in 3 minutes in the Master's Exercise test. The E. C. G. record taken 2 minutes after the exercise showed a S.T depression of 1.5 to 2 mm. in Lead I.

In view of this and the history, the possibility of his having angina pectoris (deficient coronary artery blood supply to the heart brought about by increased demand of exercise or emotion) cannot be ruled out.

It is evident from the abovenoted report that Dr. Berry has found no clinical basis for any serious ailment whatsoever and the tests conducted by him disclosed a normal condition. It is otherwise axiomatic that it is impossible to eliminate the remote possibility of heart disease even in persons of average health. The significant fact, however, is that prior to the report of Dr. R. L. Mahajan on 16th of April, 1970, the medical data of the respondent had never even remotely suggested a heart ailment and all that had been complained of earlier was colic pain or a mild urinary tract infection. Dr. R. L. Mahajan in his evidence in this Court virtually conceded that there was no basis or any record for his suggestion that the respondent suffered from cardiac neurosis and that he had said so merely because the respondent had complained of the same.

8. The overall impression that I have from all the circumstances noticed above, is that the respondent Ajit Singh has resorted to the subterfuge of securing his bail on medical grounds in the absence of any basis for his release on merits. Of late this is a method which is being employed with distressing frequency by persons accused of serious crime. It is obvious that for his age and build he is a normal person merely showing the signs of average wear and tear of life. Psychic conditions do not admit of any easy assessment. If any anxiety neurosis or similar reaction due to confinement in jail are to be made a ground for the release of convicts charged with serious crime, then the large majority of undertrials on murder charges, may well qualify and claim the concession of bail. Certain stresses in case of persons confined on charges of murder are inevitable but these are hardly a valid ground which can be made a basis for the grant of liberty to them. In view of what has emerged from the evidence of Dr. Mahajan in this Court and the valuable report of Dr. Berry it is patent that respondent Ajit Singh is indeed very far from being a sick or infirm person who could claim to be released on those exceptional grounds. The grant of bail to him is a patently erroneous exercise of discretion and is one which is wholly unsustainable. I would accordingly cancel the bail granted to respondent Ajit Singh and direct that he be taken into custody forthwith.