

(2000) 12 AHC CK 0125

Allahabad High Court

Case No: Criminal Miscellaneous IInd Bail Application No. 11001 of 2000

Man Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Dec. 1, 2000

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 309
- Penal Code, 1860 (IPC) - Section 302
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(2), 3(5)

Citation: (2001) 2 ACR 1746 : (2002) 93 RD 70

Hon'ble Judges: J.C. Gupta, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

J.C. Gupta, J.

Heard applicant's counsel and Shri A. K. Dwivedi, learned A.G.A. for the State. Rejoinder-affidavit filed on behalf of the applicant is taken on record.

2. First bail application moved on behalf of the applicant was rejected by this Bench on 2.2.2000. Bail is now being claimed on the ground of parity and it is submitted that co-accused Vijay Singh who is alleged to be armed with kulhari has been allowed bail by Hon'ble S. K. Agarwal, J., by the order dated 11.9.2000. It is further pointed out that co-accused Shiv Ratan and Bhagwat Singh who are said to be armed with fire-arm like the applicant have been allowed bail by Hon'ble V. K. Chaturvedi, J., by the order dated 13.11.2000. It is further pointed out that Shiv Ratan and Bhagwat had earlier been refused bail by the order dated 29.3.2000 and their second bail application has been allowed on the ground that as per the post-mortem report, the deceased Bhunni had sustained three incised injuries and one fire-arm injury whereas deceased--Smt. Patari Devi sustained one fire arm injury

and two incised injuries. It is argued by the applicant's counsel that the post-mortem reports indicate that the main role was played by that accused who was armed with kulhari. On the last date when this application came up for hearing, Shri Roop Chandra, Investigating Officer filed his counter-affidavit wherein in paragraph 3, it was specifically stated that "entire evidence is over and 19.8.2000 is fixed for arguments." Learned Counsel for the applicant then took time for filing rejoinder-affidavit. Today rejoinder-affidavit has been filed wherein it is stated that 20.1.2001 has been fixed for hearing arguments on the question of framing charges. Learned Counsel for the applicant also produced before the Court certified copy of the order sheet of the proceedings of the trial court which clearly indicates that the above statement of fact made by the Investigating Officer in paragraph 3 in his counter-affidavit is totally false and incorrect.

3. Let a notice fixing 5.1.2001 be issued to the Investigating Officer, Shri Roop Chandra, Dy. Superintendent, C.B.C.I.D., Allahabad, to show cause why he be not proceeded in accordance with law for filing a false affidavit before this Court.

4. Since main accused Vijay Singh and other accused Shiv Ratan and Bhagwat who were armed with fire-arm like the applicant have already been bailed out by the orders of different Benches of this Court, the applicant also deserves bail on the ground of parity. Accordingly, applicant Man Singh involved in Case Crime No. 133 of 1999 u/s 302, I.P.C. and Section 3 (2)/(5) of the S.C.S.T. Act police station Kharela, district Mahoba, shall be released on bail on his executing a personal bond in the sum of Rs. 25,000 and on furnishing two sureties each in the like amount to the satisfaction of C.J.M., Mahoba, on the condition that he shall co-operate with the expeditious disposal of trial which shall be conducted strictly in accordance with the provisions of Section 309, Cr. P.C. on day-to-day basis. The trial court after framing of charges shall fix atleast three consecutive dates for recording the prosecution evidence of the witnesses present in continuation without any break. S.P., Mahoba, is also directed to ensure production of all the prosecution witnesses on the dates fixed by the trial court and there shall be no lapse in this regard. It is further made clear that if at any stage of the trial it is found by the court below that the applicant is deliberately delaying the progress of the trial, it shall be open for it to cancel the bail of the applicant.