

State vs. Sudama @ Langada @ Ashok

CNR No.: DLCT01-000981-2023

SC No. 57/2023

FIR No. 56/2022

Under Section 328/379/411 IPC & 147/179 IR Act

PS Old Delhi Railway Station

24.04.2023

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Himanshu Singh, Advocate for the accused,
namely, Sudama @ Langada @ Ashok (*In short 'the applicant'*).

ORDER

1. This is 2nd application under Section 439 Cr.P.C. for seeking regular bail in respect of the applicant.

2. Ld. Counsel for the applicant contended that the applicant is a specially abled person. He contended that the applicant is in judicial custody since 04.10.2022. He contended that the applicant is the sole earning member of his family having responsibility of 4 minor children. He contended that the applicant has not been convicted for any offence. He contended that MLCs do not corroborate the case of the prosecution. He contended that the applicant was implicated in this case only for the reason that he is a disabled person. He contended that no blood sample or gastric lavage of the complainant and his wife were taken. He relied on judgment in *Anwar Ali vs. State of Chhatisgarh*, (2008) 16 SCC 501 to contend that Hon'ble Supreme Court of India granted bail on the ground that the applicant was not required by Investigating Officer for further interrogation.

3. Ld. Counsel for the applicant relied on judgment in ***Prabhakar Tiwari vs. State of Uttar Pradesh & Anr.***, (2020) 11 SCC 648 to contend that gravity and seriousness of offence as well as criminal antecedents cannot be a ground for refusal of bail. He relied on judgment in ***Seema Singh vs. CBI & Anr.***, (2018) 16 SCC 10 to contend that seriousness of an offence cannot be a ground to outrightly deny the benefit of bail.

4. Ld. Addl. PP for the State contended that 1st application under Section 439 Cr.P.C. for bail was dismissed by the Court of Session on 14.12.2022. He contended that Ld. Court of Session had taken into consideration gravity and seriousness of offence as well as conclusion of investigation while dismissing the said application. He contended that there is no material change in circumstances warranting any indulgence by this Court.

5. The Court of Session, after taking into consideration contentions of Ld. Counsel for the applicant and examination of material on record, dismissed 1st application under Section 439 Cr.P.C. for bail, *vide* order dated 14.12.2022, as under:

“Having considered the arguments, it transpires that the applicant / accused in a well planned manner, committed theft of articles / cash from the complainant and his wife. Ld. Addl. PP drew the attention of the court to the fact that many such “*zeharkhurani*” gangs / members are operating in an around railway station who commit such offences by offering eatable to the non suspecting commuters.

Such incidents decrease the trust of people on others and also is a threat to smooth public transportation. The applicant / accused had also refused to participate in the TIP proceedings for his identification. Not only the Aadhar Card and part cash were recovered from his possession but even some packets of *bhujia* and one match box probably containing sedatives (sent to FSL for examination) has also been recovered from the possession of the applicant / accused.”

6. While granting or refusing bail, the Court is enjoined to pass a reasoned order on the basis of parameters governing exercise of such discretion. Gravity of offence, seriousness of the allegations, criminal antecedents etc. cannot be considered in isolation. The Court has to consider cumulative effect of the factors governing exercise of such discretion and its impact upon the victim and the society. Length of custody cannot be considered in isolation from the other parameters.

7. The applicant is accused of committing robbery from senior citizens by taking advantage of their vulnerability by administering them intoxicating substance on the pretext of providing them a seat in a general coach.

8. Moreover, there is no change in material circumstance for entertaining the 2nd application under Section 439 Cr.P.C. for bail.

9. Accordingly, the application under Section 439 Cr.P.C. for seeking regular bail in respect of the applicant, namely, Sudama @ Langada @ Ashok is dismissed.

A copy of order be given to Ld. Counsel for the applicant. A copy of order be sent to SHO / IO, PS Old Delhi Railway Station on his *WhatsApp*. A copy of order be sent to the concerned Jail Superintendent with the direction to handover copy of order to the applicant.

Sanjay Sharma-II
ASJ-03, Central District
Tis Hazari Courts, Delhi
24.04.2023

NK