

State Vs. Sumit Verma

CNR No.: DLCT01-018352-2024

SC No.: 771/2024

FIR No.: 452/2024

Under Sections: 392/397/120B/412/34 IPC & 25/27 Arms Act.

PS: Karol Bagh

02.12.2024

Present: Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. Ashish Kumar, Ld. Counsel for the accused,
namely, Sumit Verma.

ORDER

1. This is the fourth application moved on behalf of applicant, namely, Sumit Verma (*hereinafter referred to as the 'applicant/accused'*), in terms of the provisions under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*)/Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*), seeking regular bail. Pertinently, the third/last bail application of the applicant was dismissed by this Court *vide* order dated 20.09.2024.

2. Learned Counsel for the applicant outrightly asserted that the applicant is innocent and has been falsely implicated in the present case by the police officials of concerned Police Station. It was further submitted by the Ld. Counsel further submitted that the applicant has nothing to do with the alleged offence, with which he has been charged with. Ld. Counsel further submitted that the investigation of the case has already complete, and the chargesheet has already been filed by the IO and the applicant is no more required for any further custodial interrogation. Ld. Counsel further asserted that no fruitful purpose would be served by keeping the applicant in judicial custody any further. As per the Ld. Counsel, even otherwise, nothing has been recovered from the possession of the

applicant or at his instance and the recovery, if any, has been planted upon the applicant by the police officials. Ld. Counsel further submitted that the applicant has been languishing in judicial custody ever since 10.06.2024, without there being any chances of trial getting concluded, anytime in near future. Ld. Counsel further submitted that the applicant is the sole bread earner of his family and in his absence his whole family is under grave hardships. Further, as per Ld. Counsel wife of the applicant is suffering with kidney stone and fatty liver and is under treatment for the same and except the applicant, there is no other male member in the family to look after his ailing wife as well as his children. Ld. Counsel further submitted that the applicant is not a previous convict and has clean antecedents and deep roots in the society and there are no chances of the applicant's absconding/fleeing from justice, if admitted to bail. Lastly, it was submitted by the Ld. Counsel that applicant is ready to abide by the terms imposed by this Court while granting bail, including cooperating with the investigating authorities for further investigation, as and when summoned/ requisitioned.

3. *Per contra* Ld. Addl. PP for the State vehemently opposed the present application on the ground that the applicant was actively involved in the commission of offence in the instant case, being a grave offence. It was further submitted that in case bail is granted to the applicant, there are chances that the prosecution's witnesses would be exposed to threat, coercion and/or undue influence, especially when the proceedings are/instant trial is still at its nascent stage. Further, as per the Ld. Addl. PP for the State, there is a reasonable likelihood of flight risk of the applicant, besides there has been no change in circumstance since the applicant's dismissal of last bail

application. Ld. Addl. PP for the State has also submitted that the applicant is involved in multiple cases.

4. The arguments of Ld. Counsel for applicant and that of Ld. Addl. PP for the State, heard as well as case record(s) have been thoroughly perused.

5. Before proceeding further, this Court iterates the settled law¹ that determination of bail entails the establishment of an equilibrium so as to ensure that no prejudice is caused to the free, fair and full investigation, on one hand, as well as there is prevention of harassment, humiliation and unjustified detention of the accused, on the other hand. Incontestably, liberty of an individual is valuable right, however, it is trite law² that such a protection cannot be absolute and there may be instances where the collective interest of the community may predominate the right³ of personal liberty of an individual. Ergo, it is quite understandable that several factors are required to be considered while granting or refusing bail⁴. Further, strikingly, it is a settled law⁵ that where there are sufficient reasons to have reasonable apprehension that the accused would flee from justice and/or tamper with prosecution evidence, such an accused can be refused bail. Apposite to further note that though, the courts are required to give reasons at the stage of determination of bail, however, a detailed examination of evidence and elaborate documentation of the merits of the case is not required⁶ at such a stage. Further, court(s) cannot go into the question of credibility

¹ *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 and *Pratibha Manchanda v. State of Haryana*, (2023) 8 SCC 181.

² *Masroor v. State of U.P.*, (2009) 14 SCC 286

³ *Shahzad Hasan Khan v. Ishtiaq Hasan Khan*, (1987) 2 SCC 684

⁴ *Gurcharan Singh v. State (Delhi Admn.)*, (1978) 1 SCC 118

⁵ *Anil Mahajan v. Commissioner of Customs*, 84 (2000) DLT 854

⁶ *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321

and reliability of the witnesses/evidence put up by the prosecution, which can only be tested during the trial⁷.

6. At the same time, this Court is cognizant of the settled principle of law that, though, there is no embargo under law in the accused moving successive bail applications, however, under such circumstances it is incumbent on the court(s) entertaining such subsequent bail applications, *“to record⁸ what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.”* Clearly, the only thing to be considered by the court(s) at such a stage is that there must be material, and not cosmetic change in circumstances⁹ convincing the court(s) to grant any indulgence in favour of the applicant. Apposite to further mention here that it has been persistently avowed by various courts¹⁰ that mere filing of chargesheet or framing of charges would not amount to material change in circumstances for the purpose of bail. Apposite to note in this regard that while considering an entreaty for bail, court(s) cannot be oblivious to the impact of grant thereof on the witnesses or the complainant. In fact, in this regard the superior courts¹¹ have persistently cautioned that the impact of grant on bail on the witnesses, yet to be examined and/or victim is required to be duly considered by court(s), at the stage of such determination. Even otherwise, the superior courts¹² have also avowed that the impact of an offence on the society, equally needs consideration while determining on an entreaty for bail.

⁷ *Satish Jaggi v. State of Chhattisgarh*, (2007) 11 SCC 195

⁸ *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528

⁹ *Anil Kumar Bansal v. State*, 2011 SCC OnLine Del 2647

¹⁰ *Virupakshappa Gouda v. State of Karnataka*, (2017) 5 SCC 406; *Sunil Gupta v. State of Madhya Pradesh Misc. Crl. Case No. 40317/2021*, dated 13.08.2021 (Hon'ble Madhya Pradesh High Court) and *Prem Singh v. State of Punjab*, 2020 SCC OnLine P&H 1341

¹¹ *Sudha Singh v. State of U.P.*, (2021) 4 SCC 781

¹² *Neeru Yadav v. State of U.P.*, (2016) 15 SCC 422.

Needless to further overemphasize that there is also no dearth of precedents¹³ which proclaim that neither a defective investigation/infirmity in investigation nor hostility of the witnesses¹⁴ can be the sole ground(s) for granting bail. Further, it is trite law that gender cannot be ground for bail¹⁵ when the alleged offence is grave in nature.

7. Consequently, being mindful of the principles noted hereinabove, this Court observes that the primary contention of the Ld. Counsel for the applicant is that he has been wrongly roped into the present proceedings. However, in this regard it is outrightly asserted that a detailed scrutiny of the evidence or evaluation of their truth/veracity cannot be undertaken at the stage of bail, so as to prejudice either the prosecution's or the defense's case. Suffice it is for the present purpose to note that from a perusal of the documents placed on record, in particular, from the statement of the complainant, the applicant's complicity and active role in the commission of offence *prima facie* stands established in so far as the applicant is asserted to be in habitual receipt of stolen property. Needless to mention, all the contentions raised by the Ld. Counsel for the applicant have already been considered in his earlier bail application and the Ld. Counsel has failed to demonstrate any material change in circumstance, since the dismissal of applicant's earlier bail application *vide* order dated 20.09.2024.

8. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the offence, severity of the punishment which may be awarded upon

¹³ *Sompal Singh v. Sunil Rathj*, (2005) 1 SCC 1

¹⁴ *Arun Kumar v. State (NCT of Delhi)*, 2023 SCC OnLine Del 3134 and *Krishna Kant v. State of U.P.*, Criminal Misc. Bail Application No. 33329/2020, dated 16.12.2022.

¹⁵ *Dilli Rani v. State of Karnataka*, 2023 SCC OnLine Kar 35

conviction; the fact of applicant is involved in a crime of heinous nature; the role and complicity of the applicant as well as the *prima facie* incriminating evidence brought on record against him; manner of commission of offence; reasonable apprehension regarding the applicant's fleeing from justice and/or influencing prosecution witnesses, proceedings still being at a nascent stage as the charges are yet to be framed against the accused persons; and further considering the impact of the offence on the society, this Court does not deem it fit to grant bail to the applicant at this stage. Needless to mention, Ld. Counsel for the applicant has failed to demonstrate any material change in circumstance, since the dismissal of applicant's last bail application on 20.09.2024.

9. Accordingly, the present application under Section 439 Cr.P.C. for regular bail *qua* the applicant Sumit Verma is ***dismissed***.

10. It is clarified herein that the observations made in the present order are only limited for the purpose of deciding the present application of the applicant herein and would have no bearing on the factual matrix of the present case.

11. A copy of the present order be given ***dasti*** to the Ld. Counsel for the applicant, namely, Sumit Verma. Further, a **copy of this order be sent to the concerned Jail Superintendent with the direction to hand over** a copy of order to the applicant.

Abhishek Goyal
ASJ-03, Central District,
Tis Hazari Courts, Delhi
02.12.2024