

State vs. Rahul Kumar Pal

CNR No.: DLCT01-011251-2022

SC No. 501/2022

e-FIR No. 111/2022

Under Section 365/395/342/170 IPC

PS Lahori Gate

24.08.2022

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.
Mr. G.S. Singh, Advocate for the accused, namely, Rahul Kumar Pal.

ORDER

1. This is an application under Section 439 of '*The Code of Criminal Procedure, 1973*' (*Hereinafter referred to as 'Cr.P.C.'*) for seeking regular bail in respect of the accused, namely, Rahul Kumar Pal (*Hereinafter referred to as 'the applicant'*).

2. Ld. Counsel for the applicant contended that the applicant was falsely implicated in this case. He contended that there is delay of 5 days in lodging of FIR. He contended that FIR is ante-time and ante-dated. He contended that no recovery was effected from possession of the applicant despite 7 days police custody. He contended that the applicant was not named in FIR. He contended that there is no incriminating material against the applicant. He contended that the applicant is not visible in CCTV footage. He contended that faces of the persons allegedly involved in commission of *offence* are not clear. He contended that none of the persons in CCTV footage is seen with bag.

3. Ld. Counsel for the applicant contended that CCTV footage was not sent to FSL for forensic examination. He contended that there can be tampering with CCTV footage. He contended that there is no credibility of CCTV footage. He contended that merely taking a vehicle from a friend is not an *offence*. Finally, he contended that charge-sheet has been filed and the applicant is not required to be detained.

4. As regards the contention relating to filing of charge-sheet, it can be stated that filing of charge-sheet does not entitle the applicant to bail. Filing of a charge-sheet is a circumstance against the applicant that investigating agency has found a case worth trial against him.

5. In ***Virupakshappa Gouda & Anr. vs. State of Karnataka & Anr.***, (2017) 5 SCC 406, Hon'ble Supreme Court of India held as under:

“12. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons.....”

6. As regards delay in registration of FIR, it is seen that the incident in question had taken place on 31.03.2022 and FIR was lodged on 04.04.2022. Mere delay in lodging of FIR is not a ground to doubt veracity, authenticity and credibility of the prosecution case at this stage.

7. There is *prima facie* material that the applicant alongwith his 4 associates impersonated himself as a police official of Uttar Pradesh Police and abducted the applicant in a white Scorpio and thereafter, robbed an amount of Rs. 65,00,000/- alongwith other articles from him.

8. White Scorpio No. **UP 80DJ 0888** was recovered at the instance of the applicant. The applicant alongwith his associates is visible in CCTV footage. Call Detail Record (CDR), *prima facie*, discloses his presence at the place of incident. The applicant was an official of Uttar Pradesh Police. The applicant did not join Test Identification Parade (TIP) on the ground that the complainant knows him. The complainant identified the applicant.

9. The applicant is already involved in 2 cases of similar nature registered in Agra, *vide* FIR No. 0479/2018 under Section 395/412/120B IPC registered at PS Hari Parbat and FIR No. 0560/2019 registered at PS Hari Parbat.

10. In ***Sudha Singh vs. State of U.P.***, CrI. Appeal No. 448/2021 decided on 23.04.2021, Hon'ble Supreme Court of India has held under:

“9. This Court in **Neeru Yadav vs. State of U.P.** held that when a stand was taken that the accused was a history sheeter, it was imperative for the High Courts to scrutinize every aspect and not capriciously record that the accused was entitled to be released on bail on the ground of parity.

10. In **Ash Mohammad vs. Shiv Raj Singh**, this Court observed that when citizens were scared to lead a peaceful life and heinous *offences* were obstructions in the establishment

of a well-ordered society, the Courts play an even more important role, and the burden is heavy. It emphasized on the need to have a proper analysis of the criminal antecedents of the accused.”

11. The complainant is a common people. He is vulnerable to threat, undue influence or inducement.

12. In *Sudha Singh vs. State of U.P.* (*supra*), Hon'ble Supreme Court of India held, as under:

“7. We find in this case that the High Court has overlooked several aspects, such as the potential threat to witnesses, forcing the trial court to grant protection. It is needless to point out that in cases of this nature, it is important that courts do not enlarge an accused on bail with a blinkered vision by just taking into account only the parties before them and the incident in question. It is necessary for courts to consider the impact that release of such persons on bail will have on the witnesses yet to be examined and the innocent members of the family of the victim who might be the next victims.”

13. There is presumption of innocence in favour of the applicant. The Court is under legal obligation to give due respect to liberty of the applicant. However, in a democratic society, there is no concept of absolute liberty. The liberty accorded to a citizen is a regulated freedom.

14. In *Gudikanti Narasimhulu and Others vs. Public Prosecutor*, (1978) 1 SCC 240, Hon'ble Supreme Court of India held, as under:

“10.....Reasonableness postulates intelligent care and predicates that deprivation of freedom by refusal of bail is not for punitive purpose but for the bi-focal interests of justice – to the individual involved and society affected.”

15. In *Neeru Yadav vs. State of U.P. & Anr.*, (2016) 15

SCC 422, Hon'ble Supreme Court of India held, as under:

“13. We will be failing in our duty if we do not take note of the concept of liberty and its curtailment by law. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm to the society. The victim may be an individual, but in the ultimate eventuate, it is the society which is the victim. A crime, as is understood, creates a dent in the law and order situation. In a civilised society, a crime disturbs orderliness. It affects the peaceful life of the society. An individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself. He cannot cause harm to others. He cannot be a nuisance to the collective. He cannot be a terror to the society.....

15.....Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.”

16. Accordingly, the application under Section 439 Cr.P.C. for seeking regular bail in respect of the applicant, namely, Rahul Kumar Pal is dismissed.

17. A copy of order be sent to Ld. Counsel for the applicant and IO / SHO on their *WhatsApp*.

18. 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
24.08.2022

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