

STATE OF PUNJAB
v.
RANINDER SINGH AND ANR. ETC.

NOVEMBER 19, 2007

[A.K. MATHUR AND MARKANDEY KATJU, JJ.]

Criminal Appeal No. 1608/2007

Code of Criminal Procedure, 1973:

s. 438(2)(i)—Anticipatory bail—Granted by High Court—Appeal against—HELD: In view of s. 438(2)(i), while granting anticipatory bail the Court can lay down a condition that the accused shall make himself available for interrogation by a police officer as and when required—Purpose of such a provision is that anticipatory bail can not be permitted to be abused—It is made clear that in case respondents do not cooperate with the investigation, then it is always open for the State to move an application before High Court for cancellation of bail, which will be decided in accordance with law.

Criminal Appeal No. 1607/2007

Contempt of Court:

Application and affidavit before High Court—Contempt notice issued to Police Officer who sworn the affidavit for loose expressions occurring in the application—HELD: Normally Courts should not be oversensitive and should not take very serious note of any loose expressions in an application—Contempt jurisdiction is to be sparingly exercised in very exceptional cases—However, applicant should use proper language and state correct facts in his application—Although it is not contempt, proper decorum should be maintained—The Police Officer had sworn the affidavit but counsel who prepared application should have been more careful while drafting such an application—They should not make incorrect statements—Language used by them

A *should be in consonance with dignity of Court—On facts, it is not a proper case where contempt notice ought to have been issued—Order issuing contempt notice set aside—Order staying arrest of respondent is maintained.*

B *'Contempt of Court: The Need for a Fresh Look' by Markandey Katju, AIR 2007 (March) (Journal Section), referred to.*

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1608 of 2007.

C From the final Judgment/Order dated 24.5.2007 of the High Court of Punjab and Haryana at Chandigarh in CrI. M.No. 33867-M/2007.

WITH

CrI.A.No. 1607 of 2007.

D K.K. Khurana, A.A.G., K.K. Venugopal, Ashwani Kumar Mata, Ravi Shankar Prasad, U.U. Lalit, L.N. Rao, Kuldip Singh, Ajay Pal, Vaibhav Dang, Amrendra Kumar Mehta, Rashi Khurana, Atul Nanda, Rajesh Kumar, Sandeep Bajaj (for M/S Law Associates & Co.) Arun Monga, Rameeza and Naresh Bakshi for the appearing parties.

E The Order of the Court was delivered

ORDER

F Criminal Appeal No. 1608 of 2007 @ SLP (CrI.) No. 3433 of 2007.

We have heard learned counsel for the parties.

Leave granted.

G We have perused the impugned order dated 24th May, 2007 granting anticipatory bail passed by the learned Single Judge of the Punjab & Haryana High Court in CrI. Misc. No. 33867-M of 2007. After hearing learned counsel for the parties, we are of the opinion that no interference is called for by this Court. The appeal is accordingly, dismissed.

H

However, we make it clear that in case the respondents do not cooperate with the investigation, then it is always open for the State to move an application before the High Court for cancellation of the bail, which will be decided in accordance with law. A

It may be mentioned here that Section 438(2)(i) of the Code of Criminal Procedure is very clear that while granting anticipatory bail the Court can lay down a condition that the accused shall make himself available for interrogation by a police officer as and when required. The purpose of such a provision is that anticipatory bail cannot be permitted to be abused. It is therefore, implicit that whenever the Court imposes such a condition in its order, and the accused called for interrogation or for certain investigation does not appear before the investigating officer then it will be open for the State to move the High Court for cancellation of bail. B C

We make it clear that this order is confined only to the F.I.R. in the present case. D

Criminal Appeal No. 1607/2007 @ SLP (Crl.) No. 3514/2007.

We have heard learned counsel for the parties. E

Leave granted.

This appeal by special leave is directed against the orders dated 15.5.2007 and 31.5.2007 passed by the learned Single Judge of the Punjab & Haryana High Court in Crl. Misc. No. 27116-M of 2007 and CRM No. 36313 of 2007 whereby a contempt notice was issued to the Senior Superintendent of Police, Vigilance Bureau, Ludhiana who has sworn the affidavit along with the application. Normally the Courts should not be oversensitive and should not take very serious note of any loose expressions in the application. Contempt jurisdiction is to be sparingly exercise in very exceptional cases, as one of us (Markandey Katju, J.) has observed in an article 'Contempt of Court: The Need for a Fresh Look' published in the Journal Section of A.I.R. 2007 (March Part), and we agree with the views expressed therein. However, the applicant should use proper language and state correct facts in his application. Although it F G H

- A is not contempt, proper decorum should be maintained. Be that as it may, we are of the opinion that the learned Judge should not have issued contempt notice in the matter. The S.S.P. had sworn the affidavit but the counsel who has prepared the application should have been more careful while drafting such an application. They should not make incorrect statements. The language used by them should be in consonance with the dignity of the Court.

Having regard to the facts and circumstances of the case, we do not think it to be a proper case where contempt notice ought to have been issued.

In the facts and circumstances of the case, while maintaining the order dated 15.5.2007 we set aside the direction in the last paragraph of the learned Single Judge's Order dated 31st May, 2007 issuing notice to the S.S.P., Vigilance Bureau, Ludhiana.

The appeal is accordingly, disposed of.

R.P.

Appeal disposed of.