

SUPREME COURT OF INDIA

Pravinbhai Kashirambhai Patel

Vs.

State of Gujarat

S.L.P. (Crl.) No.1923 of 2010

(Altamas Kabir and Cyriac Joseph JJ.)

08.07.2010

JUDGEMENT

Altamas Kabir, J.

1. In connection with an incident which is said to have occurred on 11th September, 2008 at about 11.00 a.m. and continued even thereafter, a complaint was made at about 5.30 p.m. to the Police Inspector, Anand Police Station, by one Patel Bipin Dahyabhai and three others. In the said complaint it was alleged that on the said date at 11.00 a.m. the Respondent No.2 and his associates together with a mob of about 20 persons carrying sticks, scythes and arms, illegally entered into Nidhwad Survey No.66, which the complainant contended belonging to him and his family members, and threatened to dispossess them by force from the said land and even held out threats to kill the complainant and his family members if they resisted.

2. From the contents of the complaint itself it is clear that immediately after the said incident the petitioner tried to lodge a complaint with the Police Inspector of Anand Police Station, but such complaint was not registered and within half an hour thereafter the mob came back and assaulted the complainant and his associates with sticks and scythes and caused serious injuries to the petitioner herein and some of his other associates who had to be taken to the Anand Suvidha Hospital for treatment. In the written complaint it was mentioned that besides causing serious injuries to the complainant and his group, the Respondent No.2 and his associates caused damage to the vehicles belonging to the petitioner. Since the complaint was not registered, the petitioner and his associates were said to have gone to the Office of the D.S.P., where they were informed that the said Officer was not available and, ultimately, the written complaint was made, in which another incident allegedly involving the snatching and theft of cash and ornaments from one Manishbhai Patel and certain other car accessories, was also included.

3. After the said written complaint had been made, a First Information Report was also recorded at the instance of the petitioner herein by the P.S.O., Sanand District, Ahmedabad (Rural), on 11th September, 2008, at 10.15 p.m. at V.S. Hospital, where the complainant had

been referred for treatment. In the First Information Report it was stated by the petitioner that when the mob of 30 to 40 persons rushed towards the informant and his brother and nephew, the Respondent No.2 and his son, Lalitbhai Babubhai Patel, were standing on the road beside their car and with the help of signs they are alleged to have directed the attackers to assault the petitioner and his family members.

“According to the Respondent Nos.2 and 3, there is yet another version of the incident contained in a letter addressed by the petitioner and others to the Director General of Police, Gujarat, wherein it was shown that the Respondent Nos.2 and 3 were present at Village Nighrad at the time of the alleged offence and after having directed as to how the entire operation was to be carried out, they left the place. The Respondent Nos.2 and 3 thereafter applied for anticipatory bail and the same was allowed by the Additional Sessions Judge, Fast Track Court No.1, Ahmedabad (Rural), Mirzapur, by his order dated 11th November, 2009. While granting the prayer of the Respondent Nos.2 and 3 for grant of anticipatory bail, the learned trial court imposed various conditions to ensure that the investigation was not compromised in any way or that the Respondent Nos.2 and 3 cooperated with the investigation.”

4. The said order allowing the prayer of the Respondent Nos.2 and 3 for grant of anticipatory bail was thereafter challenged by the petitioner herein before the High Court. The High Court, upon considering the material available and after considering the various decisions of this Court laying down the parameters for grant of anticipatory bail, dismissed the petitioner's application under sections 439(2) and 482 of the Criminal Procedure Code for setting aside the order dated 11th November, 2009, passed by the learned Additional Sessions Judge and to cancel the anticipatory bail granted to the Respondent Nos.2 and 3 herein.

5. This Special Leave Petition has been filed by the complainant being dissatisfied with the aforesaid order of the High Court upholding the order of the trial court granting anticipatory bail to the Respondent Nos.2 and 3 in connection with the F.I.R. dated 11th September, 2008.

6. Extensive submissions were made by Mr. Yatin N. Ojha, learned Senior Advocate, appearing for the petitioner, in support of his contentions that not only had the trial court erred in granting anticipatory bail to the Respondent Nos.2 and 3, but that the High Court had also erred in confirming the order of the learned Additional Sessions Judge. Mr. Ojha submitted that in the facts and circumstances of the case, the anticipatory bail granted to the Respondent Nos.2 and 3, in connection with the complaint filed by the petitioner, was liable to be set aside. Mr. Ojha urged that when such serious charges in respect of offences alleged to have been committed under Sections 395, 397, 467, 468 and 471 I.P.C. had been made against the Respondent Nos.2 and 3 and their associates, the learned Additional Sessions Judge, having regard to the gravity of the offence, ought not to have allowed the prayer of the Respondent Nos.2 and 3 for grant of anticipatory bail.

7. In support of his aforesaid submissions, Mr. Ojha firstly referred to the decision of this Court in *Puran vs. Rambilas & Anr.*¹, in which the grounds for cancellation of bail under Section 439(2) Cr.P.C. fell for consideration and it was held that an order granting bail, by ignoring material and evidence on record and without giving reasons, would be perverse and contrary to principles of law and such an order would itself provide a ground for moving an application for cancellation of bail. It was further observed that such ground for cancellation of bail would be different from the ground that the accused had misconducted himself or that some new facts called for cancellation of bail.

8. Mr. Ojha then referred to the decision of this Court in *Superintendent of Police, CBI & Ors. vs. Tapan Kumar Singh*² in support of his submissions that there was no compulsion that all facts and details relating to the offence are to be included in the F.I.R. This Court observed that the information given must disclose the commission of a cognizable offence and must provide a basis for the Police Officer to suspect the commission of such an offence. Mr. Ojha submitted that in the instant case certain information was provided in the F.I.R. which was subsequently supplemented by addition of other charges upon further investigation into the complaint.

9. Mr. Ojha submitted that the said view was subsequently reiterated by this Court in various cases and as recently as in the case of *Animireddy Venkata Ramana & Ors. vs. Public Prosecutor, High Court of Andhra Pradesh*³, wherein it was reiterated that since in the F.I.R. the accused persons have been named and overt acts on their part have also been mentioned, it was not necessary that each and every detail of the incident was to be stated. It was further observed that a First Information Report is not meant to be encyclopaedic.

10. Mr. Ojha submitted that the grant of anticipatory bail to the Respondent Nos.2 and 3 was in violation of the principles laid down by this Court in State rep. by the *C.B.I. vs. Anil Sharma*⁴, in which the factors to be considered in exercise of the discretionary power were considered. The said case involved a member of the Legislative Assembly of the State of Himachal Pradesh, who was also a Minister of the Himachal Pradesh State Government for three years and was the son of a former Union Minister. It was held that in appropriate cases anticipatory bail should not be granted to persons holding high positions and/or wielding considerable influence and that the investigating agencies would be better placed to elicit more useful information and material during custodial interrogation and that the High Court had erred in ignoring the apprehension expressed by C.B.I. that considering the high office held by the applicant and wide influence that he could wield, the C.B.I. would be subjected to a great handicap in the interrogation process in case of grant of pre-arrest bail.

“Reference was also made to the decision of this Court in *Anil Kumar Tulsiyani vs. State of U.P. & Anr.*⁵, wherein it was indicated that among the relevant considerations for grant of bail in respect of non-bailable offences, was the gravity and the nature of the offence. Mr. Ojha urged that the decision in the said case was clearly attracted to the facts of the instant case, having regard to the gravity of the offences complained of against the Respondent Nos.2 and 3.”

11. Mr. Ojha submitted that whether the Respondent Nos.2 and 3 have abused the privilege of anticipatory bail or not was not the only consideration for exercise of power under Section 439(2) Cr.P.C., what was equally important was the correctness of the manner in which the respondents had been admitted to bail by the trial court. Mr. Ojha urged that having regard to the gravity of the offences alleged, both the Additional Sessions Judge as well as the High Court had erred in granting anticipatory bail to the Respondent Nos.2 and 3 and the said orders were liable to be set aside.

12. Appearing for the State of Gujarat, Ms. Hemantika Wahi supported the case of the petitioner and contended that notwithstanding the fact that the investigation had been completed, custodial interrogation of Respondent Nos.2 and 3 was still required in order to elicit further evidence in connection with the case.

13. On behalf of the Respondent Nos.2 and 3 it was submitted that it is only after considering the various materials available on record in respect of the purported incident the prayer of the said respondents for grant of anticipatory bail was allowed. Mr. Jaideep Gupta, learned Senior Advocate appearing with Mr. Mukul Rohtagi, learned Senior Advocate, who had commenced the submissions on behalf of the said respondents, urged that except for the statement made on behalf of the State of Gujarat that custodial interrogation of the Respondent Nos.2 and 3 was necessary in connection with the investigation into the complaint made by the petitioner, no other case has been made out for cancellation of such bail.

14. The decisions cited by Mr. Ojha in support of his contentions, lay down the principles, which are normally required to be followed while granting regular bail or anticipatory bail, but the same have to be applied according to the facts and circumstances of each case. Except for indicating the broad outlines for grant of bail and/or anticipatory bail, no strait-jacket formula can be prescribed for universal application, as each case for grant of bail has to be considered on its own merits and in the facts and nuances of each case.

“In fact, the principles laid down by this Court in *State of U.P. vs. Amarmani Tripathi*⁶, broadly covers the matters to be considered in an application for grant of bail, but even then the same may not fully cover the fact situation of each case.”

14. In the instant case, on account of the different versions noticed in the three different complaints made in respect of the incident of 11th September, 2008, and having regard to the fact that allegations with regard to offences under Sections 395, 397, 467, 468 and 471 I.P.C. were sought to be added at a later stage of investigation, no case has been made out for allowing the petitioner's application under Section 439(2) read with Section 482 Cr.P.C.

15. Accordingly, while dismissing the Special Leave Petition, filed by Pravinbhai Kashirambhai Patel, we also make it clear that any observation made in this order shall be

deemed to have been made only for the purposes of disposing of the Special Leave Petition and not for any other purpose.

16. The Special Leave Petition is dismissed accordingly.

¹(2001) 6 SCC 338

²(2003) 6 SCC 175

³(2008) 5 SCC 368

⁴(1997) 7 SCC 187

⁵(2006) 9 SCC 425

⁶(2005) 8 SCC 21