

**IN THE COURT OF MS. SUJATA KOHLI, DISTRICT &
SESSIONS JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI),
ROUSE AVENUE DISTRICT COURT COMPLEX, NEW DELHI**

FIR No. 213/2020

U/s : 386/506/306/34 IPC

PS: Neb Sarai (DIU)

Distt: South

Harish Kumar Vs. State

28.07.2020

**ORDER ON APPLICATION UNDER SECTION 439 OF
CODE OF CRIMINAL PROCEDURE SEEKING ^{REGULAR}
BAIL FOR AND ON BEHALF OF THE
APPLICANT/ACCUSED NAMELY HARISH KUMAR.**

1. Matter was taken up through video conferencing hosted by Sh. Suneet Singh Negi, Reader of this Court in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dated 16.05.2020 and 16/DHC/2020 dated 13.06.2020.
2. This is first bail application under Section 439 CrPC moved on behalf of applicant/accused Harish Kumar.
3. As is quite well known, in the city of Delhi and so many other metro cities, there are water mafias running with the aid of Local Government Authorities and Local Leaders. The facts of the present case also revolve around such water mafias. Accused/applicant is alleged to be a

gang member of such mafia. As per the prosecution, the deceased was harassed by the gang members of this water mafia so much and to the extent that he was compelled into committing suicide.

4. The brief facts of the case are that one accused Prakash Jarwal (who was MLA from Deoli Constituency New Delhi), used to extort money through his accomplices Kapil Nagar, Harish Jarwal and Anil Jarwal from the deceased Dr. Late Sh. Rajendra Singh since 2015 for permitting his water tanker to remain engaged with Delhi Jal Board.
5. The deceased was in a grave fear and used to pay extortion money to the accused Prakash Jarwal through his aforesaid accomplices and other henchmen. As alleged, even thereafter the accused Prakash Jarwal was not satisfied and hence the water tankers of the deceased were removed from the panel of Delhi Jal Board and Delhi Jal Board had also stopped payment of his bills.
6. Ultimately, due to continuous harassment caused by financial/mental torture, inflicted by the accused persons, together in a conspiracy, over a long duration, the deceased had paid the extorted money but, accused Prakash Jarwal was not satisfied and hence his water tankers were removed from Delhi Jal Board and Delhi Jal Board had also stopped payment of his bills, therefore, due to harassment made by the accused persons, over a long duration, the deceased on 18.04.2020 at about 5.30

a.m. in early morning, committed suicide on the roof top of his house no. A-144, Second Floor, Durga Vihar, Devli, New Delhi.

7. The matter was reported to the police on the same day, the Crime Team visited and inspected the spot and seized a suicide note and a diary written by the deceased revealing the facts against the aforesaid accused persons. Hence, this case.
8. The accused/applicant has sought bail mainly on the ground that the accused/applicant is innocent and has been falsely implicated in this case. It has further been contended that the co accused namely Anil Jarwal has been granted anticipatory bail vide order dated 02.06.2020 and that the accused Prakash Jarwal has also been granted regular bail by Hon'ble High Court vide order dated 24.06.2020, therefore the accused/applicant claims parity.
9. Ld. Counsel for the applicant/accused addressed detailed arguments on the merit of the matter. He has even gone to address certain particular points, firstly, that there was nothing in the suicide note that applicant/accused had ever extortion, threats etc. or any kind of instigation to the deceased which could have lead him to commit suicide; secondly that, even the complaint which was allegedly made by the wife of the deceased on 11.04.2020, happened to be just one week before the incident, thirdly that, there was no water tanker

existing in the name of deceased and to substantiate this, Ld. Counsel for accused/applicant relied upon an RTI application and the reply received thereto dated 24.04.2020 (annexure-D). Further, Ld. Counsel for accused/applicant also denied that the payments were not being made to the vendors and again he relied upon the reply to the said RTI application.

Further, Ld. Counsel for the applicant relied upon one sting operation alleged to have been carried out by News 18.com to highlight that the tankers which had earlier stood in the name of the deceased had been disengaged/removed due to the illegal acts of the deceased himself, which had been caught on the camera in the said sting operation. Further, ofcourse the accused/applicant sought parity on the ground of bail/anticipatory bail of his co-accused/main accused persons.

10. Ld. Counsel for the accused/applicant also forcefully argued that the question as to what is the cause of a suicide has no easy answers, because suicide ideation and behaviours in human beings are complex and multi- faceted. Different individuals in the same situation react and behave different because of their own thinking and interpretation and their own individual tendencies towards committing suicide. Ld. Counsel went to a great length on the different mental aspects of a

person committing suicide and his entire psychology for a great length of time. In nut-shell to summarize it all, he denied that there was any offence of extortion, or any offence causing threats was indulged into by his client at any point of time and that he is innocent.

11. Ld. Counsel for the accused/applicant has further argued that the name of the accused/applicant is not in the FIR anywhere and this is the reason this applicant was not arrested since April. He further contended that the suicide note is a fabricated document and same is in two different hand writings with different pens/inks. According to the applicant/accused his name was added later on to implicate him falsely.
12. It was further contended that there is no mention of any extortion or threat in the complaint dated 11.04.2020 given to DJB by the wife of deceased.

Ld. Counsel referred to a reply of RTI application in which it has been mentioned that no water tanker had been engaged in the name of the deceased in the last one year and further 9 water tankers of deceased were disengaged by the competent authority as the deceased was caught red handed in black marketing of water tankers. It was also informed in reply to the RTI, that no payment had been stopped by the DJB and around 62 lakhs had been paid in lieu of some tankers run by different family members of the deceased.

13. On the other hand, the state has strongly opposed the bail of the particular accused/applicant drawing a distinction from the fact that the accused/applicant grossly misused the benefit/respice period of two weeks that he was granted by the order of Hon'ble High Court dated 09.06.2020. Since he misused the benefit of that period of respice, our own Hon'ble High Court was also pleased to reject his anticipatory bail application on that reason alone vide order dated 02.07.2020.
14. Ld. APP for State and even IO sought liberty to address certain specific submissions regarding the misuse of the respice period granted to the accused/applicant. The IO in his submissions as well as reply highlighted that the accused/applicant misrepresented to the Hon'ble High Court at the relevant point of time in the anticipatory bail that he was suffering from Covid and that he needed to be self quarantined. On his undertakings, the Hon'ble High Court had been pleased to grant him a two week respice. During that two week respice the IO discovered in his investigations that the accused/applicant, apart from not cooperating with him had been away to other places like Gurugram and Ghaziabad whereas he was supposed to be self quarantined at home.
15. After the Hon'ble High Court was pleased to dismiss the anticipatory bail application, taking a serious view of the misconduct of the applicant/accused, even during the hearing on this bail application, Ld.

Counsel for the applicant/accused was not able to pin point any good reason as to why the accused/applicant was not found present at his home and why he was roaming around at Gurugram and Ghaziabad after having taken a benefit from the Hon'ble High Court.

16. Ld. PP for State has opposed the present application submitting that the deceased committed suicide as he was harassed by the accused persons to the maximum extent and on being instigated by them; that name of the accused Harish Jarwal is mentioned in the Suicide note and the diary of deceased Dr. Rajinder Singh.
17. He further submitted that there appears a nexus of Tanker Mafias run by accused persons and they have full control over the operating of water tankers for supply of water in the area of Deoli and Sangam Vihar and their individual role is yet to be ascertained; that it is established that the applicant/accused Harish Jarwal is involved in the racket of water tanker mafia run by MLA Prakash Jarwal and is regularly extorting and accepted money on his behalf.
18. It was also highlight during arguments particularly by the IO that CDR analysis of MLA Prakash Jarwal reveals that total 715 calls were made between the MLA Prakash Jarwal and the present applicant/accused which shows that applicant is very close to the MLA Prakash Jarwal and is actively working for extorting money; that the nature of the

crime committed by the accused persons is heinous.

19. Most importantly, it was further brought to the notice of the court by the IO that even after the arrest of the MLA Prakash Jarwal, the present applicant/accused was still found extending regular threats to public/tanker owners. Applicant/accused even continued to operate the extortion racket of MLA Prakash Jarwal. In fact, the IO referred to several phone call recordings in which the present applicant/accused is heard extending threats to the public/water tanker owners. Transcript thereof has also been filed and read out before this Court.
20. It was further forcefully submitted by the IO that the associate of the present applicant/accused had manhandled a witness of this case Sh. Sanjay Kumar and threatened him to withdraw his statement given before police on 07.06.2020.
21. In fact Ld. Counsel for the complainant also moved an application to seek permission for being heard against this bail application. Going by the recent directions of Hon'ble High Court, needless to say that Ld. Counsel for the complainant was very well entitled to be heard with respect to the bail application. Accordingly, vide separate order passed today itself, the said application also stood allowed.
22. I have heard arguments as advanced by Ld. Defence Counsel Sh. Ravi Drall for the accused Harish Kumar, Ld. Public Prosecutor Sh. Manish

Rawat and the IO/Inspector Kumar Rajiv and SI Kamal Kishore on behalf of the State and even Ld. Counsel Sh. Ravinder Singh for the complainant, through Video Conferencing on CISCO WEBEX Meeting Platform.

23. Reference needs to be had to the extracts of the suicide note as under:-

“Prakash Jarwal va Kapil Jarwal aur uske aadmi hai jo ki mujhe pareshan karte hai jaise Harish Jarwal, iska bhai Anil Jarwal. Meri Gadi bhi DJB GK-1 South-III se bina kisi shikayat ke hatwa di aur pichli payment bhi rukwa di hai. Ab mujhe pareshan karne ke liye apni poori power prayog kar rahe hai. Kapil Nagar va Prakash Jarwal ka bhai Anil Jarwal mera jeevan barbad kar diya ha in logo ne. Mai heart ka mareej hu mere par raham karo maine in haivano ko bahut samjhaya par ye nahi mane ki hamare vidhayak ka aadesh hai ham use satya karenge aur tujhe parlok pahucha kar he rahenge. Saahab mai inke dar se apni jeevan leela samapt kar raha hu. Sahab bahut sundar parivar ko Kapil Nagar va Prakash Jarwal ne nasht kar diya hai. Meri Parivar ka to ab ishwar malik hai. Apni to Jeevan Leela in darindo ne nasht karva hi di hai. Ishwar unhe unke karmo ki saja dilwaye”.

24. Statements of various members of public were recorded u/s 161 CrPC and u/s 164 CrPC and all of them seem to corroborate the version of the complaint as well as of the suicide note.

25. It is well known that there is a big nexus between water tanker owners

and local MLAs and the local water authorities in various metro cities. During investigation in the present case, it has come up on record that there was a big nexus between the water tanker owners and the main accused Prakash Jarwal MLA along with other associates Kapil Nagar, Harish Jarwal and other associates who were indulging in extortion from water tanker owners. Upon perusal of the statements of witnesses it does come up that the extortion racket was being run by MLA Prakash Jarwal with the help of several other henchmen but the main associates were Kapil Nagar and Harish Jarwal, both of them used to divide equally the water tankers running in the area of Deoli for the purpose of collection of extortion money.

26. It cannot be ignored at this stage that the name of Harish Jarwal applicant/accused does figure in the suicide note of the deceased and this is with all due respect that the observation made in a previous order on an earlier anticipatory bail application of the accused/applicant to the effect that his name seem to have been entered in a different pen and a different ink, that obviously would be a matter to be dealt with at the stage of trial. It also cannot be ignored that there are several phone call recordings which have come on record, in which the present applicant is alleged to have extended threats of extortion to public/water tanker owners. The call recordings of the threats would

show that these calls were made even after and inspite of the arrest of the main accused Prakash Jarwal which is quite a serious aspect in so far as the criteria for grant or dismissal of bail to any accused person is governed by.

27. The court has also perused the relevant material where it appears that first time name of one witness Mr. Sanjay Kumar had been disclosed by the IO and the call recordings were annexed with the status report during a court hearing on the anticipatory bail application of applicant/accused Harish Kumar himself, whereafter itself, the applicant/accused Harish Kumar started extending threats and demanding money from the witness Sanjay Kumar as well. The associates of the present applicant/accused are alleged to have manhandled the said witness Mr. Sanjay Kumar and also threatened him to withdraw his statement given to police on 07.06.2020.

28. It is quite a serious matter that this witness Mr. Sanjay Kumar even filed a written complaint with PS Neb Sarai on 08.06.2020 in this regard. Ultimately, the said Sanjay Kumar even later on retracted from his earlier statement.

29. Thus, sufficient material is existing on record to show that the present applicant/accused Harish Kumar Jarwal had tried all his best to pressurize the witness Sanjay Kumar so much so that thereafter the

witness Mr. Sanjay Kumar withdrew his above complaint on the very same day. The CDR filed by the IO also corroborates this fact in as much as the said applicant/accused contacted 21 times to one Mr. Kale who is supposed to be the middle man of the said compromise arrived at between the accused/applicant Harish Kumar and the said witness Mr. Sanjay Kumar.

30. It was further the case of the IO that even during the two day police custody remand, the accused/applicant Harish Kumar Jarwal did not cooperate at all.
31. I have also perused the entire transcripts of various conversations filed by the IO.
32. No doubt, bail not Jail is the general rule, however adopting the settled criteria for grant or dismissal of bail and various guidelines issued over a period of time, the conduct or misconduct of an accused during an earlier benefit/reprieve granted by the Hon'ble High Court becomes most relevant, particularly in the backdrop of the entire facts and circumstances of the case. The first statement of witness Sanjay Kumar u/s 161 CrPC, his complaint that he was being threatened by the accused/applicant, and thereafter his backtracking on his original statement altogether would go to add substance to the points raised by the IO as well as Ld. APP for State.

33. Upon inquiry it is informed that there are a lot of public witnesses to be examined in this matter, charge sheet is nearing completion, therefore, taking a serious view of the misconduct of the applicant/accused during his reprieve period and further his major role in the entire incident, I do not deem it appropriate to admit the accused/applicant to bail, at this stage. However, the prosecution is also advised to expedite the proceedings and no undue delay be caused at the instance of prosecution or on the part of the Trial Court concerned. Fresh bail application may be considered as and when the examination of all public witnesses stands concluded.

None of the observations made above shall be construed as an expression of opinion on the merits of the case which would be a matter of trial.

34. Accordingly, at this stage, bail application of the accused/applicant Harish Kumar is dismissed.

**Announced in open Court
today on 28.07.2020**

(SUJATA KOHLI)
District & Sessions Judge-cum-Spl. Judge
(PC Act)(CBI)/RADC/ND

**IN THE COURT OF MS. SUJATA KOHLI, DISTRICT &
SESSIONS JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI),
ROUSE AVENUE DISTRICT COURT COMPLEX, NEW DELHI**

FIR No. 213/2020

U/s : 386/506/306/34 IPC

PS: Neb Sarai (DIU)

Distt: South

State Vs. Harish Kumar

28.07.2020

Order on Application for Addressing Oral and Written Arguments
moved on behalf of Complainant

1. Matter was taken up through video conferencing hosted by Sh. Suneet Singh Negi, Reader of this Court in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dated 16.05.2020 and 16/DHC/2020 dated 13.06.2020.
2. The present application has been moved on behalf of the complainant/son of the deceased for addressing oral as well as written arguments on the bail application of accused Harish Kumar in addition to the submissions to be made by the State and wishes to place on record various vial material/information qua the case. Be registered as miscellaneous application.
3. I have heard Ld. Counsel Sh. Ravinder Singh for the complainant, Ld. APP for State and Ld. Defence Counsel through Video Conferencing

on CISCO WEBEX Meeting Platform on the application. None has any objection to the said application.

4. Also, in view of recent directions which our own Hon'ble High Court has been pleased to issue and also from time to time that complainant must be heard before disposal of the bail application and therefore, this application of the complainant stands allowed.
5. Application disposed of.

**Announced in open Court
today on 28.07.2020**

(SUJATA KOHLI)
District & Sessions Judge-cum-Spl. Judge
(PC Act)(CBI)/RADC/ND