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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: July 08, 2015

+ **CRL.M.C. 2677/2015 & CrI.M.A.9653/2015**

SURAJ PAL

..... Petitioner

Through: Mr. Satish Chand Gupta, Mr.
Sarbendra Kumar and Mr. Prakash
Sharma, Advocates

versus

VIJAY CHAUHAN & ORS

.....Respondents

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State
with SI Iftkhar Ahmad

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

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Cancellation of transit bail granted to respondent-accused is sought in this petition on the ground that application for bail of respondent-accused was already dismissed by Sessions Court in Uttar Pradesh and there was no justification for respondent-accused to obtain transit bail in order to file bail application before the Allahabad High Court.

At the hearing, learned counsel for petitioner-complainant had submitted that in a serious offence of dowry death, grant of transit bail is wholly unjustified. It was pointed out by learned counsel for petitioner-complainant that the transit bail was initially granted for three weeks to respondent-accused and the same was illegally extended vide impugned order of 25th June, 2015 (*Annexure P-3*) for fifteen days and the said period of fifteen days is coming to end on 10th July, 2015.

Upon hearing and on perusal of the impugned orders and the material on record, I do find that the grant of transit bail to respondent-accused was not at all justified in a case of dowry death. But, since the transit bail is coming to end within next 48 hours, therefore, there is no point in staying the operation of the impugned order or in putting respondent-accused to notice. However, the Sessions Court dealing with such like serious matters ought to be reminded that transit bail is not to be granted in serious offences of dowry death, etc., particularly, when in State of Uttar Pradesh there is no provision for grant of pre-arrest bail. Impugned orders do not give any justification as to why transit bail is granted to respondent-accused. No extraordinary circumstances have been highlighted to adopt such an unusual course.

Impugned order of 29th May, 2015 relies upon decisions of this Court in *M. Ravi Prasad & Ors. v. The State (NCT of Delhi) & Anr.*, 2006 (2) JCC 1133, *Vijay Prasad v. The State (NCT of Delhi) & Anr.*, 2006 (2) JCC 722 and *Pramod Kumar Bajaj & Anr. v. State of Maharashtra & Anr.*, 2007 (4) JCC 2671 to justify the grant of transit bail.

On perusal of the decisions in *M. Ravi Prasad (supra)*, *Vijay Prasad (supra)* and *Pramod Kumar (supra)*, I find that out of these three decisions relied upon by learned Additional Sessions Judge, one case pertains to offence under Section 506 of IPC, another case pertains to offence under Section 498-A of IPC and the third one pertains to offence under Section 408 of IPC.

Apex Court in *Jai Prakash Singh v. State of Bihar*, (2012) 4 SCC 379 has reiterated that nature and gravity of the offence has to be taken into consideration. Without considering the nature and gravity of the

offence in question, transit bail has been granted for inordinate period of three weeks and not only this, it has been extended by another two weeks. Granting transit bail for such an inordinately long period amounts to virtually granting pre-arrest bail. Impugned orders do not provide any justification for granting transit bail for such a long period. The nature and gravity of the offence has not been considered. The discretion to grant transit bail has been exercised by the learned Additional Sessions Judge in a most inappropriate manner, which needs to be deprecated.

This Court is constrained to note that after regular bail has been refused to respondent-accused by the Sessions Court in U.P., grant of transit bail to enable respondent-accused to approach the High Court of Allahabad cannot be justified from any point of view.

This petition and the application are disposed of while deprecating the impugned orders as it would be futile to stay the operation of the impugned order because it is coming to end within next 48 hours. However, the concerned court be apprised of this order within 24 hours so further application for extension is not entertained.

The District & Sessions Judge (Hqs.) Central, Delhi shall ensure that this order is forthwith circulated in all the District Courts so that transit bail is not granted in serious offences in routine and in manner in which it has been granted in the instant case.

This petition and the application are disposed of with aforesaid directions.

(SUNIL GAUR)
JUDGE

JULY 08, 2015

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