



ITEM NO.4

COURT NO.4

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s).9817/2024

(Arising out of impugned final judgment and order dated 12-07-2024
in BA No.2096/2024 passed by the High Court of Delhi at New Delhi)

BIBHAV KUMAR

Petitioner(s)

VERSUS

STATE OF NCT OF DELHI

Respondent(s)

(IA No.159367/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.159370/2024-EXEMPTION FROM FILING O.T.)

Date : 02-09-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Dr. A.M. Singhvi, Sr.Adv.
Ms. Mukta Gupta, Sr.Adv.
Mr. Narendra Hooda, Sr.Adv.
Mr. N.Hariharan, Sr.Adv.
Mr. Karan Sharma, AOR
Mr. Vivek Jain, Adv.
Mohd. Irshad, Adv.
Mr. Rajat Bhardwaj, Adv.
Mohd. Sadiq, Adv.
Mr. Tushar Gupta, Adv.
Mr. Sanjeev N., Adv.
Mr. Mohit Siwach, Adv.
Mr. Rajat Jain, Adv.
Mr. Kaustabh Khana, Adv.
Mr. Warisha Farasat, Adv.

For Respondent(s) Mr. Suryaprakash V Raju, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Zoheb Hussain, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Priyanka Tyagi, Adv.
Mr. Kanu Agarwal, Adv.

For Complainant Mr. Sanjeev Sahay, Adv.
Ms. Shagufa Salim, AOR
Ms. Shagun Saproo, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioner seeks enlargement on bail in FIR No.277/2024, under Sections 308, 341, 354-B, 506 and 509 of the Indian Penal Code, registered at Police Station Civil Lines, Delhi.
2. Very briefly stated, the allegations are that the petitioner, who was Private Secretary to the Chief Minister of Delhi, assaulted the complainant-victim, who is a Member of Parliament for Rajya Sabha from Delhi, at the time when she entered the residence of the Chief Minister of Delhi. The incident is said to have taken place on 13.05.2024, followed by registration of the subject FIR on 16.05.2024.
3. The petitioner was arrested on 18.05.2024 and after remaining in police custody, he was sent to judicial custody.
4. It is not a matter of dispute that the investigation is complete and the chargesheet has been filed. Keeping that stage in mind, we do not deem it necessary to hear learned Senior Counsel for the petitioner or learned Additional Solicitor General of India on the point as to whether a *prima facie* case under Section 308 IPC is made out or not. That issue exclusively falls within the domain of the Trial Court and the parties shall be at liberty to raise their respective contentions in this regard before the Trial Court at an appropriate stage.
5. Adverting to the prayer made by the petitioner for grant of bail, we find that there are more than 51 witnesses proposed by the prosecution to be examined as can be seen from the chargesheet, a copy whereof has been placed on record. The conclusion of trial will, thus, take some reasonable time. The petitioner is already in custody for more than 100 days. In the event of his release, the petitioner, at this stage, is not likely to hamper or cause impediment in the investigation which is already complete.
6. Learned Additional Solicitor General of India as well as learned counsel for the complainant-victim have vehemently argued that owing to the official status, which the petitioner has been enjoying in the past, and his political clout, he is likely to

influence the private vulnerable witnesses whose versions will have material bearing on determining the nature and manner of occurrence that took place on 13.05.2024. It is, thus, urged that the prayer for bail may be deferred till such time the vulnerable witnesses are examined by the Trial Court.

7. In our quest to strike a balance between `liberty' on one hand and `a fair trial' on the other, we appreciate the concern of the prosecution that the witnesses must be kept free from any kind of extraneous pressure or influence to enable them to depose fearlessly. We are, however, satisfied that the desired protection can be afforded through various alternative measures including by imposing such reasonable terms and conditions which would prevent the propensity to influence the witnesses or tamper with the evidence. In any case, any such attempt by the beneficiary of a discretionary jurisdiction of the Court, will amount to misuse of concession of bail and the necessary consequences would, thus, follow.

8. Taking into consideration the totality of the circumstances, however, without expressing any opinion on the merits of the case, we deem it appropriate to release the petitioner on bail.

9. The petitioner is, accordingly, directed to be released on bail subject to such terms and conditions that may be imposed by the Trial Court.

10. In addition to the terms and conditions to be imposed by the Trial Court, we, in the interest of justice, deem it appropriate to direct the following additional terms and conditions:

(i) The petitioner shall not be restored to the position of Private Secretary to the Chief Minister of Delhi and shall also not be given any other assignment during the pendency of the trial.

(ii) The petitioner shall not enter the premises of the Chief Minister's Residence or Office till all the vulnerable witnesses are examined by the Trial Court.

(iii) The prosecution is directed firstly to produce important and private vulnerable witnesses. Such witnesses should be examined first by the Trial Court.

(iv) The Trial Court shall make an endeavour to examine the important or vulnerable witnesses as early as possible, and preferably within three months.

(v) The petitioner shall not make any public comments on the merits of the issues, which are *sub-judice* before the Trial Court. This condition is imposed at this stage to safeguard the victim's rights and to dissuade a recent tendency of building self-serving narrative on public platforms.

(vi) However, the petitioner shall be at liberty to raise all his contentions before the Trial Court.

11. The Special Leave Petition stands disposed of in the above terms.

12. As a result, the pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)