



Assertion of Innocence or Assuring Participation in Trial Not Valid Ground to Release Accused on Bail in Serious Offence: Supreme Court



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The Division Bench of the Hon'ble Supreme Court ("SC") comprising of Justice C.T. Ravikumar and Justice PV Sanjay Kumar was hearing an appeal against the order of Jharkhand High Court ("HC") in the [State of Jharkhand v. Dhananjay Gupta \[i\]](#). The HC granted bail to the accused who was charged with a serious offence of committing murder and charged under the Arms Act.

The Apex court set aside the order of the High Court and clarified that mere assertion of innocence or undertaking to participate in the trial by the accused cannot be [a valid ground](#) to grant him bail wherein he is charged with serious criminal offences.

The Court opined that *"At any rate, mere claim of innocence or undertaking to participate in the trial or contention of absence of specific allegation of any overt act cannot, in such circumstances, be assigned as reasons for grant of bail in a case of serious nature"*.

Facts of the case

In the instant case, the FIR was registered against the accused under Section 307 of the Indian Penal Code (IPC) which provides the punishments for attempt to murder and Section 27 of the Arms Act containing the punishment for using arms, along with multiple other charges. On August 28, 2022, the accused was arrested for committing serious criminal offences and he was granted bail by the HC on January 12, 2023.

The accused pleaded innocence before the HC, and he also submitted an undertaking that he would participate in the trial. While seeking bail before the HC, the Counsel for the accused argued that no overt act had been alleged against the accused, and the investigation in the said case had also been completed against him. Based on the said averments, the HC released the accused on bail.

Reasons recorded by the HC while granting bail to the accused in Para 4 of its order reads as *"Innocence has been claimed by the learned counsel for the applicant and undertaking has been given for participation in the trial. Further, it has been submitted that no overt act has been alleged against this applicant. Investigation is complete..."*

Aggrieved by the impugned order of the HC, an appeal was filed before the SC.

Findings of the SC

The Division Bench showed disagreement with the order of the HC and stressed that in cases involving serious offences such as an attempt to murder, seeking bail on the grounds that the investigation is completed, or he would participate in trial cannot be a sufficient ground to release the accused on bail. While granting bail the seriousness of the offence must also be taken into account.

Decision of the Court

The SC stated that *"When the offences alleged, inter alia, includes one under Section 307, IPC and the accused concerned is so arraigned with the aid of Section 149, IPC, such submissions, reflected in paragraph or the mere factum of completion of investigation by itself, cannot be the reason(s) for grant of bail without due consideration of the relevant aspects."*

Based on the above findings, the SC set aside the impugned order of the HC and it remanded the matter back to the HC to consider it afresh in accordance with the law.

Conclusion

In this case, the SC highlighted that while granting bail to an accused mere assertion of his innocence, an undertaking that he would participate in trial or even the contention that the investigation against him is completed cannot be valid grounds to grant him bail when the offence is of serious nature. The Court must consider the charges against the accused while releasing him on bail along with other satisfactory grounds.

[i] [2023 LiveLaw \(SC\) 1038](#)