

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O A No.65 of 2013

TUESDAY, THE 20TH DAY OF AUGUST, 2013/29TH SRAVANA, 1935

CORAM:

HON'BLE MR. JUSTICE SHRIKANT TRIPATHI, MEMBER (J)
HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

NO.15222760Y/ EX.GNR(DMT) GIRASE PRAMOD JAY SINGH,
206 ARMY AVIATION SQN (UTILITY HELICOPTER FLIGHT),
REPRESENTED BY HIS FATER GIRASE JAY SINGH GUMAN SINGH,
AGED 56 YEARS, S/O. LATE GIRASE GUMAN SINGH,
POST KAMPUR, TEL-SHINDKHEDA, DISTT – DHULE,
MAHARASHTRA STATE, PIN – 425 408.

BY ADV. SRI. RAMESH C.R.

versus

RESPONDENTS:

1. UNION OF INDIA, THROUGH THE SECRETARY,
MINISTRY OF DEFENCE, (ARMY),
SOUTH BLOCK, NEW DELHI – 110001.
2. THE CHIEF OF ARMY STAFF, DHQ P.O.,
INTEGRATED HQRS., MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI 110 011.
3. THE GENERAL OFFICER COMMANDING,
HQ ANDHRA, TAMILNADU, KERALA & KARNATAKA AREA,
(D & V), C/O.56 APO.
4. THE OFFICER IN CHARGE,
HQ KARNATAKA & KERALA SUB AREA,(AWES),
C/O.56 APO.
5. NO.WS-01451M, CAPT SNEHAL KALANGE,
LOGISTICS OFFICER, 206 ARMY AVIATION SQN (UH),
BANGALORE – 560025.
6. NO.IC-57695M, LT.COL.R.B.MANTENA,
ADJUTANT, 206 ARMY AVIATION SQN (UH),
BANGLORE – 560025.
7. THE COMMANDING OFFICER, 206 ARMY AVIATION SQN (UH),
BANGALORE – 560 025.

BY ADV. SRI. K.M. JAMALUDEEN SENIOR PANEL COUNSEL.

INTERIM ORDER

Shrikant Tripathi, Member (J):

Heard Mr.Ramesh C.R for the applicant and Mr.K.M.Jamaludeen for the respondents and perused the record.

2. It is admitted position that the petition filed by the applicant under Section 164 of the Army Act before the Chief of Army Staff is still pending for consideration, therefore, we consider it just and expedient to fix a time limit for disposal of the petition by the Chief of Army Staff and then hear the matter on merit.

3. Learned counsel for the applicant, however, submitted that the applicant has already served out a substantial portion of the sentence, therefore, he may be released on bail. The maximum sentence of imprisonment imposed against the applicant is of six months and he is said to have already served out more than 5 months.

4. Learned counsel for the applicant further submitted that the victim, an officer of the rank of Captain, had come to her residence approximately at the midnight with a stranger to whom she pretended as her cousin, but failed to specify the pedigree or exact relation. He next submitted that at that point of time, the lady officer was in a drunken condition and was about to fall while opening the lock. So, the applicant tried to help her but she felt annoyed and

concocted the present case. Learned counsel next contended that no medical examination was done to find out whether the lady officer was drunken or not, or she was addict to alcohol or not. Her injuries were also not subjected to medical examination to find out as to whether they were caused during the occurrence. The manner in which the incident is alleged to have taken place, if taken at its face value, the injuries could not occur in such a large number merely because the applicant caught hold of her hand. He next contended that the applicant had set up a definite defence version but the Summary Court Martial proceeded with the trial in an ex parte manner without giving due consideration to the defence story.

5. In our view, the submission that the applicant has already served out a substantial portion of the sentence, has sufficient merit. In case he is not bailed out, the appeal would become infructuous as and when he serves out the entire sentence of imprisonment. So, without entering into the merits of the aforesaid submissions of the learned counsel for the parties, but taking into account the facts and circumstances of the case, the submissions of the learned counsel for the parties and also the fact that the applicant has already served out a substantial portion of the sentence, we consider it just and expedient to enlarge him on bail during the pendency of this appeal.

6. Let the applicant be bailed out during the pendency of this appeal on his furnishing a personal bond of Rs.20,000/- (Rupees Twenty Thousand only) with two solvent sureties each in the like amount, to the satisfaction of the Commanding Officer, 206 Army Aviation Sqn (UH), Bangalore, PIN-560025. One of the sureties must be a serving armed forces personnel. It is also made clear that the applicant will not leave the country without the permission of the Tribunal and if he has any passport, the same may be surrendered to the Commanding Officer or to the Tribunal.

7. The petition filed under Section 164 of the Army Act before the Chief of Army Staff shall be disposed of within three months from the date of receipt of a copy of this order.

8. List the O.A. for final hearing after three months.

9. Let a copy of the order be given to the counsel for the parties.

Sd/-
LT. GEN. THOMAS MATHEW,
MEMBER (A)

Sd/-
JUSTICE SHRIKANT TRIPATHI,
MEMBER (J)

DK.

(True copy)

Prl. Private Secretary