

State V/s Mohd. Faizan Khan

FIR No.: 134/2020

U/s: 147/148/149/436/455/307/395/201/114/505/153A/120B/34

IPC & 25/27/54/59Arms Act

PS : Crime Branch/Dayalpur

04.07.2020

THROUGH WEBEX VIDEO CONFERENCING

Present: Shri Amit Prasad, Ld. Special PP for the State.

Shri Farhim Khan, Ld. Counsel for accused Mohd. Faizan Khan/applicant.

The arguments in this bail application have been heard in detail.

This is second regular bail application filed by the applicant/accused, whose first bail application was dismissed by Ld.Duty Judge on 11.06.2020. At the outset, a question was put to the learned counsel for the applicant about the change in circumstance(s) after 11.06.2020. The learned counsel has answered that after the dismissal of earlier bail application the chargesheet in the matter has been filed.

The learned counsel for the applicant submits that the incident in the matter took place on 24.02.2020, whereas the FIR in the matter was recorded on 05.03.2020, i.e after a delay of about 11 (eleven) days and there is no explanation for the said delay. It is further argued that the applicant was not present at the scene of crime. His CDR location at the spot is false as the said mobile phone was being used by his “bua”, who is resident of nearby locality. The applicant/accused is stated to be resident of Ghaziabad. It is next argued that applicant has clean past

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antecedents. Now, the investigation in the matter is complete and the applicant is no more required for custodial interrogation. The bail is also claimed on the ground of parity, as co-accused Faisal Farooq was granted bail by this Court on 20.06.2020.

Per contra, learned Special PP has very vehemently argued that as far as delay in recording of FIR is concerned, the riots in North-East Delhi were unprecedented, wherein, 53 persons lost their lives and more than 400 persons had suffered injuries. The complainant was under shock as he had suffered damage of several crores in his school, so he could not muster courage to approach the police immediately after the incident, however, two days after the incident he had submitted a written complaint to the police. It is further submitted that FIRs in the riot matters were registered by Police till 25.03.2020 and thereafter the lockdown was clamped in India and police officials got busy in taking care of Covid-19 situation. It is further emphasized that at the relevant point of time when the riots took place in the area of PS Dayalpur, there were only five Investigating Officers and it was not possible for them to have investigated the matter at the earliest.

It is next contended that the presence of applicant at the site cannot be said to be natural, as he is resident of Ghaziabad and it is for the applicant to explain as to what he was doing at the scene of crime. It is next contended that the applicant cannot claim parity with co-accused Faisal Farooq in the matter because his matter is pending before the Hon'ble High Court of Delhi.

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It is further submitted that the applicant has been identified in the matter by PW Roop Chand and it has been categorically stated by said PW that the applicant was present in Rajdhani Public School with other rioters and they had vandalized the entire school, thereby causing loss of several crores.

It is further submitted that a large quantity of riot material, including a large sized catapult was collected by the rioters on the roof of Rajdhani Public School from where crude bombs and petrol bombs were thrown at the houses of a particular community in the vicinity. The rioters were armed with deadly weapons and by the time police reached the Rajdhani Public School, two innocent lives were lost.

I have given my thoughtful consideration to the arguments advanced at bar and I find that although the chargesheet in the matter has been filed, but further investigation in the matter still continues as the reports of 7 DVRs collected from Rajdhani Public School are yet to be analysed and the process of identification of several rioters is going on.

Considering the gravity of allegations against the applicant; clear eye witness account against the applicant and the possibility that if released on bail at this stage, the applicant may threaten the complainant and eye witness of the case, I am not inclined to admit him on bail. The bail application is accordingly dismissed.

(VINOD YADAV)
DUTY JUDGE/ASJ-03(NE)/KKD/04.07.2020