

Bail Application No.1202/2020

State V/s Mohd. Saleem Khan

FIR No.60/2020

U/s:186/353/332/333/323/109/144/147/148/149/153-A/188/336/427/307/308/397/
412/302/201/120-B/34 IPC r/w 3 & 4 PDPP Act & Section 25/27 Arms Act
PS: Dayalpur (Crime Branch)

23.09.2020

THROUGH WEBEX VIDEO CONFERENCING

Present: Shri Amit Prasad, Ld. Special PP for the State alongwith IO,
Inspector Gurmeet Singh.

Shri Mehmood Pracha, Ld. Counsel for accused Mohd. Saleem Khan/
applicant.

ORDER

This is an application seeking interim bail for a period of one week, filed by the applicant on the ground of death of his sister Smt.Sarvari Begum, aged about 75 years, at Kannauj, Uttar Pradesh.

2. Reply to this application has been filed by the State, which is re-produced as under:

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Most respectfully, it is submitted that accused Saleem Khan has applied for the interim bail for the period of one week mentioning that his elder sister namely Late Smt.Sarvari Begum, aged 75 years passed away on 18.09.2020 and he wants to join the family for performing rituals as per the Muslim customs.

In this regard, an enquiry has been conducted which reveals that applicant/accused namely Saleem Khan, S/o Bunday Khan, resident of Chand Bagh, Delhi is amongst the 15 children of Late Shri Bunday Khan (7 sons-one died and 8 daughters-4 died).

During the enquiry of Late Smt.Saravari Begum, it is revealed that she has three sons and two daughters, even husband Shri

Nasir Ahmed is also alive.

From the enquiry, it is established that the presence of applicant accused is neither necessary nor compulsory for the last rituals. In addition to this, it is worth to mention here that except the applicant/accused, there are other five brothers and four sisters of late Smt.Sarvari Begum to take part in the last rites.

As the accused is involved in the very serious offence in which assault on police personnel on duty took place and police Head Constable was killed. Accused wants to travel to Kannauj from Delhi which is almost 450 Kilometres away and outside the jurisdiction of this Hon'ble Court.

In view of all above facts and circumstances of the case, interim bail of accused is strongly opposed.

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3. It is very vehemently argued by the learned Special PP that the misuse of the interim bail granted to the accused persons in the cases of riots on “**humanitarian grounds**” is quite prevalent; as here they seek interim bails on “**humanitarian grounds**” for a very short period, like in this case for a period of one week and before the expiry of one week, they file an application seeking extension of the interim bail on the ground that the Full Bench of Hon'ble High Court of Delhi has been pleased to extend all the interim bails during Covid-19 pandemic till 31.10.2020. In case, this Court dismisses such applications, then they do not hesitate to approach the Hon'ble High Court and several orders have been received in such cases from the Hon'ble High Court, whereby interim bails have been extended treating these bails to be “Covid bails”. It is further argued that the State has already approached the Full Bench of the Hon'ble High Court by way of a petition, seeking clarification in this regard and the said application is listed before the Full Bench on 25.09.2020.

4. It is further argued that the Hon'ble High Court of Delhi in **Crl.Misc. Case No.1499/2020**, titled as, “**Govt. of NCT of Delhi V/s Deepak Dabas**”, has been pleased to emphasize that the “**gravity of offence has to be taken into**

consideration while considering the application for interim bail". In that case, the interim bail granted by the learned Duty Judge was set aside by the Hon'ble High Court.

5. It is emphasized that the applicant is involved in the cases of rioting and murder of HC Rattan Lal (present case) and being one of the main conspirators of riots in North-East Delhi as an accused in case FIR No.59/2020, investigated by Special Cell of Delhi Police.

6. I have given my thoughtful consideration to the arguments advanced at bar. I find substance in the arguments of learned Special PP that there are other five brothers and four sisters of the applicant, besides five children and husband of deceased Smt.Sarvari Begum, who can very well take care of the post-death ceremonies. Even otherwise, it will be highly unsafe to admit the applicant on interim bail in the case, as he seeks permission to go to Kannauj, Uttar Pradesh, which is about 450 K.Ms from Delhi and the possibility of applicant misusing the liberty of interim bail cannot be ruled out.

7. In this view of the matter, the present application seeking interim bail stands dismissed.

8. A copy of this order be sent to learned counsel for the applicant through electronic mode.

(VINOD YADAV)
DUTY JUDGE/ASJ-03(NE)/KKD/23.09.2020