

State Vs. Kali @ Rajinder

FIR No: 178/20

Under Section: 307/308/120B/34 IPC and 25/27/54 Arms Act

PS: Subzi Mandi

23.07.2020

Through video conferencing

By this order, I shall dispose of the instant application filed for grant of anticipatory bail on behalf of the applicant/accused Kali.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Vivek Aggarwal, Ld. Counsel for the applicant.

Sh. Dilip Rana, Ld. Counsel for complainant.

IO/SI Puneet Bharti.

Remaining arguments heard.

Record, including the photographs filed (electronically) on behalf of State (copy supplied to Ld. Defence Counsel) through concerned SHO, perused.

Ld. Counsel for accused seeks anticipatory bail on the ground that accused has been falsely implicated in the present case and he is ready to join the investigation as and when required. It is argued that present case is nothing but a matter of '*mistaken identity*' as complainant himself has given an affidavit that the present applicant/accused is not the person who is involved in the present case. It is argued that rather a person very similar to accused

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was involved and the confusion occurred as all the persons were wearing mask. Ld. Counsel for complainant has also supported the version of defence in this regard and submits that the affidavit of complainant (as annexed with present application by defence) was given by him of his own free will and without any pressure.

Per contra, Ld. APP for State as well as IO have vehemently opposed the application for anticipatory bail inter-alia on the following grounds:

“1. Accused Kali @ Rajinder has been captured in CCTV footage.

2. Accused Kali @ Rajinder is the main culprit of the whole incident.

3. Accused Kali @ Rajinder fired two bullets in the air and one bullet on the complainant Nikhil with intention to kill him as stated by complainant in his supplementary statement and stated by injured Akshay.

4. Accused Kali @ Rajinder also injured the brother of complainant Akshay with knife.

5. Weapon of offence i.e. pistol and knife is yet to be recovered from the present accused Kali @ Rajinder.

6. Accused and his associates have done this offence like a gang.

7. The anticipatory bail of co-accused Chetan @ Goli has already been dismissed by the Hon'ble Court of Sh. Deepak Dabas, Ld. ASJ, Tis Hazari, Delhi on 10.07.2020.

8. If accused be granted anticipatory bail then he may threaten and win over the complainant and other witnesses also.

9. If accused be granted anticipatory bail then he may temper the evidences.”

It is further argued by Ld. APP for State that there is no question of '*mistaken identity*' as the accused has been specifically named by complainant with his complete particulars i.e. 'Kali, brother of BC Sonu Sardar'. It is further argued that incident in question occurred in a series of transactions wherein on first occasion at about 04.00 pm on 14.06.2020, the complainant was dragged out of his car by applicant and thereafter assaulted by accused/applicant along with other co-accused. It is argued that on second occasion at about 06.00 pm on same day, the same accused persons came and stopped battery rickshaw of complainant (the brothers of complainant namely Govind, Akshay and Tushar were also there in the rickshaw) and thereafter applicant/accused Kali fired two rounds in the air and third round on the complainant wherein latter got escaped. The brother of complainant was also alleged to have been attacked with the pistol butt by the applicant/accused (Kali). It is argued that accused Kali is absconding and NBWs have already been issued against him.

I have heard rival contentions and perused the record (including the photographs filed today) carefully.

The submission of Ld. APP carries great force as from the material available on record, it does not appear to be case of '*mistaken identity*'. The accused has been specifically named in the FIR by the complainant along with his complete particulars i.e. Kali, brother of BC Sonu Sardar. The incident in question occurred in a series of two transactions involving some amount of time, that too in broad day light, and therefore the argument of defence (regarding false implication due to '*mistaken identity*' as the assailants were wearing mask) does not disclose good grounds to be entertained. Further, the

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photographs (pertaining to incident in question) filed today clearly shows one person of strong built (wearing half face mask) having a pistol in his hand. IO has specifically identified the said person being the present applicant/accused. It is further informed by IO that during investigation it has also been verified that the accused/applicant is brother of BC Sonu Sardar.

In **State (CBI) Vs. Anil Sharma, 1997 CrI. LJ 4414**, Hon'ble Apex Court has observed as under:

“Success in such interrogation would allude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual.”

The allegations against accused are quite grave and serious. The presence of accused near the spot has also been established from the photographs filed today. The accused has been specifically named in the FIR. The custodial interrogation of accused would be required for recovery of weapon of offence and for effective investigation. It appears that the accused is attempting to interfere with course of investigation by contacting the victims and trying to influence them. Therefore, in my view, the accused may tamper with evidence and threaten the witnesses, if granted protection. Anticipatory bail of co-accused Chetan @ Goli has already been dismissed by Ld. ASJ (on duty) on 10.07.2020. The role of the present accused is graver than the said co-accused as former is alleged to be the main assailant.

Therefore, considering the totality of the circumstances and the nature of evidence appearing against applicant/accused and since his

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custodial interrogation would be required for recovery of the weapon of offence and for effective investigation, I am not inclined to grant anticipatory bail to applicant. Accordingly, the instant application seeking anticipatory bail stands dismissed.

Copy of this order be sent to concerned IO/SHO as well as concerned Ld. Magistrate for information. Another copy of this order be sent to Ld. Defence Counsel. The copies be sent electronically through official email. I may clarify that nothing expressed herein shall tantamount to an expression on the merit of present case.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
23.07.2020

State Vs. Mukesh

FIR No: 212/20

Under Section: 336/120B/34 IPC and 25/27 Arms Act

PS: Wazirabad

23.07.2020

Through video conferencing

This is fresh application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. A.K. Sharma, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to defence counsel.

It is submitted by Ld. APP for State that certain clarifications are required from SHO/IO.

In these circumstances, concerned SHO/IO is directed to join the proceedings on next date of hearing through VC along with case diary. The relevant part of the CD shall be shared with this court electronically prior to next date of hearing i.e. 25.07.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
23.07.2020

State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

23.07.2020

Through Video Conferencing

Matter is taken up today suo moto by this court.

Present: None.

It has come to my notice that due to typographical error, the word 'interim bail' has been mentioned instead of 'regular bail' (in the beginning) in order dated 20.07.2020. **Therefore, the order dated 20.07.2020 stands modified/clarified to the extent that the application filed in the instant case was for 'regular bail' and not for 'interim bail' and, therefore, the word 'interim bail' shall be read as 'regular bail' in the order dated 20.07.2020.**

Present order be digitally signed. Copy of present order be uploaded on official website and be also sent to concerned Ld. Magistrate/SHO/IO, PS Wazirabad and concerned jail superintendent for information. Dasti be given to Ld. counsel through e-mail.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
23.07.2020