

FIR No.193/2020

PS : Prasad Nagar

U/S : 307/34 IPC

State Vs. Himanshu Chahal

30.07.2020

At 12:40 PM

Present : Sh. Manoj Garg, Ld. Addl. PP for the State.

Sh. Shubham Asri, Ld. Counsel for the applicant/ accused Himanshu Chahal.

Ms. Kanchan Kapoor, Ld. Counsel for complainant.

IO SI Balmukund Rai (No. D-3590/DIU, Central) is present.

The matter has been taken up through Video Conferencing by means of Webex Meet.

The present bail application has been taken up in pursuance to Order No. 15778-15808/Bail Power/Gaz./2020 dated 15/07/2020 issued by Ld. District & Sessions Judge (HQs), Delhi.

Report of IO perused. Submissions heard.

Be put up at 4 pm for orders.

A copy of this order be uploaded on the official website of Delhi District Courts.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020(k)

30.07.2020

At 04:00 PM

ORDER ON THE APPLICATION U/S 438 CrPC MOVED ON BEHALF OF HIMANSHU CHAHAL FOR GRANT OF ANTICIPATORY BAIL

Present : None.

The matter has been taken up through Video Conferencing by means of Webex Meet.

The present bail application has been taken up in pursuance to Order No. 15778-15808/Bail Power/Gaz./2020 dated 15/07/2020 issued by Ld. District & Sessions Judge (HQs), Delhi.

1. It would be appropriate to discuss, in brief, the facts leading to the registration of the present FIR before dealing with the rival submissions.
2. On 27.08.2019, the officials of PS Prasad Nagar reached B.L.K. Hospital and discovered that one Vinay was declared to have been 'brought dead' there. And certain other injured persons namely Deepak and Dhushyant were admitted for treatment in the said hospital. The police met with the real brother namely Himanshu (present applicant/accused) of deceased Vinay, who gave a statement to the effect that at 11

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p.m. on 27.08.2019, he alongwith a friend of deceased Vinay reached at the residential premises of one Aakash. The deceased Vinay also reached there in sometime. The background of this meeting at the residential premises of Aakash, as stated by Himanshu (present applicant/accused), was that Vinay had borrowed some money from Aakash sometime back, which he had duly returned/re-paid with interest. However, Aakash was spreading rumours in the area that Vinay was yet to return his money. Himanshu (present applicant/accused) informed, in his statement made to police, that in order to clarify the matter with Aakash, the deceased Vinay, his (Vinay's) friend and Himanshu (present applicant/accused) himself went to the residential premises of Aakash at the abovesaid date & time. They met with Aakash, Deepak and Dushyant. Immediately, Deepak started beating Himanshu (present applicant/accused). Vinay tried to save Himanshu (present applicant/accused), but then Deepak took out a pistol and fired gun shots at Vinay. Aakash and Dushyant were exhorting Deepak to finish the job. One of the bullets struck the deceased Vinay in face and who fell down on the road. Thereafter, Aakash snatched the pistol from the hands of the Deepak and fled away from the spot. Deepak and Dushyant also sustained injuries in the said altercation. Himanshu (present applicant/accused) removed Vinay to hospital where Doctors declared him 'brought dead'. Himanshu (present applicant/accused) requested the police to take legal action against the accused Deepak, Dushyant and Aakash for murdering his brother Vinay. On the basis of the said statement, FIR no. 193/2019 was

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registered and after investigation, a charge-sheet was filed against Deepak, Dushyant and Aakash inter-alia u/s 302 IPC. One accused namely Kartik Rajora is still absconding.

2. Now, this FIR no. 193/2020 has been registered by the police station Prasad Nagar upon the directions of the Ld. MM concerned. Ld. MM concerned directed the registration of the said FIR on the basis of a complaint filed by one Priyanka Rajora, who is the wife of accused Dushyant (in FIR no. 193/2019). This FIR is essentially a cross FIR, wherein the version of the accused persons, who are facing trial in FIR no. 193/2019, has been brought out. In this FIR, the complainant narrates that Himanshu (complainant in FIR no. 193/2019 & present applicant/accused) and his brother Vinay (deceased) came to their house. Vinay pointed a gun, that he was carrying, towards Dushyant and fired a shot to kill Dushyant. The bullet struck the Dushyant in his head and caused serious injury. Immediately thereafter, Vinay fired another bullet at Deepak, who also sustained injuries. Both Dushyant and Deepak fell down and were removed to B.L.K. Hospital. The complainant avers that Himanshu and his brother Vinay (since deceased) committed an offence punishable U/s 307 IPC in connivance with certain other unknown persons. However, the officials of PS Prasad Nagar wrongfully arrested Aakash, Dushyant and Deepak in case FIR no. 193/2019 U/s 302/34 IPC, whereas they were totally innocent.

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3. It is in this subsequent FIR no. 193/2020 PS Prasad Nagar u/s 307 IPC that the present application has been moved by Himanshu Chahal (present applicant/accused) U/s 438 CrPC seeking anticipatory bail. At the cost of repetition it may be observed here that the applicant/ accused Himanshu Chahal is the complainant in earlier FIR no. 193/2019 PS Prasad Nagar, wherein Aakash, Deepak and Dushyant are facing allegations for commission of offence U/s 302 IPC.

4. Ld. Counsel for the applicant/ accused Himanshu Chahal has submitted that the present FIR is evolved from the previous FIR no. 193/2019 PS Prasad Nagar and the registration of the present FIR is a desperate attempt of the accused persons facing trial in FIR no. 193/2019 to pressurize the applicant to compromise the matter. Ld. Counsel for the applicant/ accused has placed on record an electronic copy of charge-sheet filed by the police in FIR no. 193/2019. Ld. Counsel for the applicant/ accused has taken this Court through the said charge-sheet. Ld. Counsel for the applicant/ accused has firstly pointed towards the page no. 2 of the charge-sheet, wherein at serial no. 10, the police has made an inventory about the articles/ documents recovered/ seized during investigation. Ld. Counsel for the applicant/ accused has now pointed towards the entry no. 10(5), which reflects the recovery of one pistol from the possession of accused Aakash and an entry no. 10(1), which reflects recovery of empty cartridge from the place of occurrence and lastly, the entry no. 10(7) which reflects the seizure of 04 DVRs

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which recorded the occurrence. Ld. Counsel for the applicant/ accused has submitted that the recovery of pistol from the possession of accused Aakash negates the story propounded by the complainant in FIR no. 193/2020 (complainant claims in FIR no. 193/2020 that the weapon was carried by deceased Vinay). Ld. Counsel for the applicant/ accused has further submitted that the charge-sheet in FIR no. 193/2019 was filed by the police after due examination of all eye witnesses as well as the electronic recordings of the occurrence in the DVRs seized during investigation. He further submits that the said fact is duly recorded in the charge-sheet at pages no. 25/26, wherein it is categorically mentioned that the accused Aakash, Deepak, Dushyant and absconding accused Kartik Rajora could be seen to be manhandling Himanshu and three other persons standing behind him.

Ld. Counsel for the applicant/ accused has further submitted that the page no. 10 of the said charge-sheet further reflects that the injury sustained by accused Dushyant was 'simple' in nature. Ld. Counsel for the applicant/ accused has pointed towards serial no. 17 of the list of witnesses filed by the prosecution in the charge-sheet in FIR no. 193/2019 wherein the name of one witness Dr. Sanjay Mehta has been recorded with an intention to examine him in order to prove MLC of accused Dushyant, which MLC reflects the nature of injury sustained by Dushyant to be "simple". Ld. Counsel for the applicant/ accused has further submitted that nature of injury recorded in the said MLC, which is a part of chargesheet filed in FIR no. 193/2019, again negates the story of the

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complainant in FIR no. 193/2020 that the accused Dushyant received a serious injury. Here, Ld. Counsel for the applicant/ accused adds that the said injury was sustained by Dushyant during the brief physical altercation, which preceded the firing caused by accused Deepak in which brother of Himanshu lost his life.

Ld. Counsel for the applicant/ accused has further submitted that in the present FIR nothing has been mentioned as to how injuries were sustained by Dushyant. In effect the complainant has failed to explain the injuries sustained by Dushyant. Ld. Counsel for the applicant/ accused has further submitted the complainant has failed to explain as to why Dushyant did not make any complaint (as per his version of events) to the police during investigation or even to the Ld. MM at the time of their remand despite simple injuries sustained by him. Ld. Counsel for the applicant/ accused has further submitted that these factors clearly shows that the present FIR is an attempt to coerce the complainant Himanshu (in FIR no. 193/2019) to compromise.

Lastly, Ld. Counsel for the applicant/ accused has submitted that the present FIR no. 193/2020 was got registered after concealment of facts. Ld. Counsel for the applicant/ accused has further submitted that nowhere the Ld. MM concerned, who passed the order U/s 156(3) CrPC, was informed about the fact that Dushyant is facing trial U/s 302/34 IPC in FIR no. 193/2019 which is arising out of the same incident.

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5. IO has filed a brief report and submits that he has taken up the investigation only a few days ago and is currently studying the records in FIR no. 193/2019 PS Prasad Nagar. However, IO submits that the applicant/ accused is having previous involvements in a criminal matter and likewise his deceased brother was involved in criminal case and so is their father involved. IO seeks at least one week's time to file a complete report before this Court.

6. Ld. APP for the state submits that the investigation is at a preliminary stage and in view of the serious nature of allegations, no blanket order be passed in favour of the applicant/ accused.

7. Ld. Counsel for the complainant submits that the serious injuries were sustained by Deepak and Dushyant in the incident and therefore, the applicant/ accused may not be granted bail in the present case. She further submits that the car involved in the incident is yet to be recovered; and three other persons, who were accompanying the accused Himanshu, are to be apprehended and therefore, the applicant/ accused may not be granted any relief at this stage.

8. This Court has considered the rival submissions. Admittedly, a physical altercation took place between Himanshu Chahal and Vinay on one hand and Deepak, Dushyant and Aakash on the other hand at the relevant time. Admittedly, Vinay lost his

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life due to gun shot injury in the said physical altercation. Out of the said incident, one FIR no. 193/2019 was registered at the instance of Himanshu (present applicant/accused), in which Deepak, Dushyant and Aakash are facing trial U/s 302/34 IPC for causing death of said Vinay. A different version of the said incident has been brought out in the form of the present FIR (i.e. 193/20), which has been registered at the directions of the Ld. MM concerned and the said version of events is narrated by the wife of Dushyant. In this FIR it is alleged that Himanshu and deceased Vinay committed an offence punishable u/s 307 IPC. Investigation in this FIR has already been transferred to DIU, Central. IO in the present FIR has sought time to furnish a detailed report. Ld. Counsel for the applicant/ accused has submitted that the interim protection may be granted to the application/ accused Himanshu Chahal at least till the filing of the detailed report by the IO. No doubt the allegations leveled in the present FIR are grave and serious, but at this stage this court could not lose sight of the fact that in a previous FIR registered at the instance of applicant/accused about the same incident a chargesheet was filed u/s 302 IPC after due investigation by police. Accordingly, the submission of the Ld. Counsel for applicant/accused to the effect that present FIR is an attempt to brow beat him onto compromise could not be brushed aside lightly. In the facts and circumstances of the present case noted above, it is directed that no coercive action shall be taken against the applicant/ accused Himanshu Chahal till the next date of hearing i.e. **13.08.2020**. However, it is clarified that these observations may not be

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PS : Prasad Nagar

construed as a bar to investigate the matter lawfully. Moreover, the applicant/ accused shall join the investigation as and when so directed by the IO concerned. Application is kept pending awaiting the report of IO in this FIR. It is further directed that IO shall produce copies of video recordings of the seized DVRs in FIR no. 193/2019, as mentioned in the relevant charge-sheet.

Be put up again on **13.08.2020**. A copy of this order be given dasti to the Ld. Counsel for the applicant/ accused, as requested.

A copy of this order be uploaded on the official website of Delhi District Courts.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020(k)

FIR No.256/19

PS: LAHORI GATE

U/S, 406/420 IPC

STATE VS. TARUN KUMAR

30.07.2020

AT 12:30 PM

Present : Sh. Deepak Prakash , Ld. Counsel for the applicant/accused Tarun Kumar .

Sh. Manoj Kumar, Ld. Addl. P.P. for the State.

The matter has been taken up through Video Conferencing by means of Webex Meet.

Part submissions heard. Matter is deferred for some time at the request of Ld. Counsel for accused. Put up at 3.00 pm.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020(k)

At 3.00 pm

Ld. counsel has informed the Reader that he is ready for making submissions. However undersigned is busy in dictating order in other matter. Accordingly put up on **31/07/2020**.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020

FIR No.193/12

PS : Sarai Rohilla

U/S : 498A/406/506/34 IPC &

Sec. 3 & 4 Dowry Prohibition Act

State Vs. Amit Nath Saini

30.07.2020

At 1:15 PM

Present : Sh. Manoj Garg, Ld. Addl. PP for the State.

**Sh. Deepak Singh Tkahur, Ld. Counsel for the applicant/ accused
Amit Nath Saini.**

IO SI Pushpendra Saroha (No. D-5003, PS Sarai Rohilla) is present.

**The matter has been taken up through Video Conferencing by means
of Webex Meet.**

The present bail application has been taken up in pursuance to Order No.
15778-15808/Bail Power/Gaz./2020 dated 15/07/2020 issued by Ld. District &
Sessions Judge (HQs), Delhi.

Ld. Counsel for the applicant/ accused seeks an adjournment.

At request, be put up again on **13.08.2020.**

A copy of this order be uploaded on the official website of Delhi District
Courts.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020(k)

FIR No.126/2020

PS : Kamla Market

U/S : 392/411/34 IPC

State Vs. Sumit

30.07.2020

At 1:05 PM

Fresh bail application U/s 439 CrPC moved on behalf of the applicant/ accused Sumit.

Present : Sh. Manoj Garg, Ld. Addl. PP for the State.

Sh. Mahender Singh, Ld. Counsel for the applicant/ accused Sumit.

IO ASI Ajab Singh (No. D-, PS Kamla Market) is present.

The matter has been taken up through Video Conferencing by means of Webex Meet.

The present bail application has been taken up in pursuance to Order No. 15778-15808/Bail Power/Gaz./2020 dated 15/07/2020 issued by Ld. District & Sessions Judge (HQs), Delhi.

Report sent in by the IO perused. Submissions heard.

The facts, in brief, as per the present FIR, are that the applicant/ accused pushed the unsuspecting complainant to ground, who at the relevant time was walking towards Ajmeri Gate and an accomplice of the applicant/ accused took out a mobile phone of the complainant and both of them fled away from the spot. After a few minutes, the

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complainant made a call on his robbed mobile number and which was picked up by a police official who instructed the complainant to come to PS Kamla Market. The complainant reached there and identified both the applicant/ accused as well as his accomplice, who committed the robbery at the relevant time.

It is stated by the Ld. Counsel for the applicant/ accused that the allegations are false and fabricated and this case has been planted upon the applicant/ accused on account of his previous involvements. Ld. Counsel for the applicant/ accused has further submitted that the applicant/ accused is languishing in judicial custody since 22.06.2020. A prayer has been made for grant of bail to the applicant/ accused.

Ld. APP for the state opposes the prayer for grant of bail to the applicant/ accused on the ground of gravity and seriousness of the allegations.

This court has considered the rival submissions. Recovery has already been effected. The applicant/ accused is no longer required for the purpose of investigation. The trial is most likely to get prolonged on account of unabated spread of COVID-19. Without commenting on the merits of the present case, the applicant/ accused Sumit is admitted to bail on furnishing a bail bond in a sum of Rs. 10,000/- with

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PS : Kamla Market

one surety in the like amount to the satisfaction of the concerned Jail Superintendent, subject of following conditions :-

- a) the applicant/ accused shall not influence the witnesses;
- b) the applicant/ accused shall not leave Delhi without permission of the concerned Court;
- c) the applicant/ accused shall also provide his as well as his surety's mobile number to the IO/ SHO immediately upon his release and shall mark his attendance in police station through audio or video mode on every Monday between 10 a.m. to 6 p.m.

The bail application stands disposed of accordingly.

A copy of this order be sent/ transmitted to the concerned Jail Superintendent for information and compliance. File be consigned to record room, as per rules.

A copy of this order be uploaded on the official website of Delhi District Courts.

(LOVLEEN)

PO-MACT-02(Central),

Delhi/30/07/2020(k)