

B.A.No.2382/21
FIR No.751/2020
PS Kotwali
State v.Kishan

05.06.2021

Present: Sh. K.P. Singh, Ld Addl. PP for State through videoconferencing. SI Ramesh /IO through videoconferencing.

Sh.Kaushal Kishore, Counsel for accused-applicant through videoconferencing.

Hearing is conducted through videoconferencing.

This is an application u/s 439 Cr.P.C. for grant of regular bailon behalf of accused-applicant Kishan in case FIR No.751/2020.

Arguments are heard. For orders, put up at 4 p.m.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ,(Central), THC/Delhi
05.06.2021

ORDER

This is an application u/s 439 Cr.P.C. for grant of regular bailon behalf of accused-applicant Kishan in case FIR No.751/2020.

Ld. Counsel for accused-applicant submits that the accused-applicant has been falsely implicated in the present case. That there is no apprehension of tampering with the prosecution evidence as all the witnesses are police officials. That the chargesheet has been filed but case is not committed to Sessions Court. That the accused has no

criminal antecedents and has been leading a peaceful life with his family members. That the allegations on the face of it are fabricated and smell of foul play at the end of the concerned police officials to falsely implicate him in one way or the other. That the police official has fired thrice at the accused-applicant though allegedly the accused-applicant had fired the shot with country made pistol which was evaded by the police official, it is from a bare reading all a cock and bull story. That the accused-applicant did not do anything or cause any hindrance in fair trial of this case and that he is a poor victim of situation and his future shall be spoiled by keeping him behind the bar further.

Ld. Addl. PP submitted that the accused applicant with co-accused were sighted by a police picket trying to flee away on a motorcycle upon finding the police naka and were pursued by the police officials upon which the accused-applicant fired a gunshot which missed the police officials and the police officials in order to apprehend the accused had shot at the accused-applicant in the thigh. That the countrymade pistol was recovered from the accused-applicant and the co-accused was found in possession of a knife.

Heard.

Case of the prosecution is that on 15.12.2020 a picket was placed near Iron Bridge to curb street crime and to nab the active criminals in the area of PS Kotwali. ASI Joginder, HC Avnish, Ct. Vinay, Rajdeep, Ct Anil and Ct. Manish were checking vehicles coming from Shastri Park side towards outer ring road. Inspr. Rituraj, SHO/Kotwali was also present there when at about 04:14PM, two suspicious persons were seen coming on a white colour TVS Apache Motor Cycle and were intercepted and stopped for checking but they tried to flee away from the

spot by leaving their motorcycle and jumped towards Yamuna Khadar and when they were chased, one of the accused pointed pistol towards Inspr. Rituraj SHO/Kotwali and another took out a knife, at which Inspr. Rituraj SHO/Kotwali and Ct. Anil first fired a round in the air and warned them to surrender but the accused-applicant again pointed the pistol towards police team and then in self defence, Inspr. Rituraj SHO/Kotwali fired one round at the right leg of the accused-applicant, who was having pistol in order to apprehend the accused. From the spot one empty cartridge fired from the pistol of accused-applicant Kanhiya Jha @ Krishan and pistol used by him was also recovered and from the possession of co-accused one buttandar Knife was recovered upon which FIR Number 751/2020, dated 15.12.2020 U/s 186/353/307/34 IPC and 25/27/54/59 Arms Act was registered.

During the course of investigation accused disclosed that they had purchased the pistol from one Rohit through one Gaurav from Seemapuri, Delhi and Police custody remand of the both of accused was granted. That both accused did not co-operate in investigation. The motor cycle which was used by the accused bearing number DL4SBP4198 was found with fake number plate and the actual number of the motor cycle was found to be DLSSBB1397 registered in the name of one Gaurav but he is absconding.

The police during regular patrolling followed the accused-applicant in pursuit alongwith co-accused only on mere suspicion. The accused-applicant is alleged to have opened fire on the police party but to have missed the shot. It is not that the accused-applicant has any criminal credentials or had committed any offence, but for no obvious reasons upon sighting the police naka, the accused-applicant with co-

accused who were riding a motorcycle left the motorcycle and ran away and jumped towards Yamuna Khadar and then when chased by the police only on mere suspicion, the accused-applicant opened fire at the police party. Such daredevilry could have been plausible if the accused were trying to evade arrest fleeing from a scene of crime or following the commission of a crime. For no particular reason the accused-applicant chose to flee, the police party headed by the SHO in hot pursuit, and above all to open fire. It would have been saner if they had just thrown the weapons and submitted for police inspection there would have been absolutely nothing incriminating against them but they were foolhardy enough to implicate themselves in such a manner as is reflected in the FIR. From such nature of accusations, and the striking improbabilities, and as chargesheet has been filed and further custody is not required for purposes of investigation, there being no apprehension of the accused trying to influence witnesses or tamper with evidence, as the case is yet to be committed and also taking into account that in the wake of the outbreak of the pandemic, the proceedings are not likely to be concluded in the most expeditious manner no purpose is to be served by keeping the accused-applicant behind bars any longer, the application at hand is allowed and regular bail is granted to accused Kanhiya Jha @ Krishan in the present case, upon his furnishing personal bond with two local sureties in the sum of Rs. 30,000/-each, to the satisfaction of the Ld. Trial Court/Duty MM, and subject to the condition that he shall not travel outside the country without prior permission of the Ld. Trial Court, that he shall scrupulously appear on each and every date of hearing before the Ld. Trial Court and shall not delay, defeat interfere with the trial in any manner whatsoever, he shall not threaten, influence

intimidate witnesses nor tamper with evidence in any manner whatsoever, he shall mention the mobile phone number to be used by him and shall ensure that the same number is kept on switched on mode at alltimes with location activated and shared with the IO throughout and shall telephonically confirm his location with the IO on the first and fifteenth day of each calender month. The accused and the surety shall not change the verified address and respective mobile phone numbers without prior intimation to the IO.

Copy of order be forwarded to Ld. counsel for accused-applicant through electronic mode.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ,(Central), THC/Delhi
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