

Bail Application No. 3196, 3195, 3194, 3193, 3192, 3191, 3190,
3189, 3188, 3208, B-10 & B-11.

State Vs. (1) Amjad Khan
(2) Abdul Kalam
(3) Rajaullah Khan
(4) Nisar
(5) Amiruddin
(6) Suaib
(7) Ahtmaad Ahmed
(8) Waqar
(9) Anis
(10) Haji Mehraj
(11) Mohd. Shoib
(12) Mohd. Amir

FIR No. 816/2019

P.S. Seema Puri

U/s. 307/143/147/148/149/186/353/332/109 IPC & section 3 of PDPP
Act 1984.

10.01.2020

ORDER

1. By way of present order I propose to decide the aforesaid 12 bail applications as filed on behalf of above named applicarits/accused. All these applications are being taken up together as the alleged role of applicants is almost similar.
2. Arguments have already been addressed by Sh. Abdul Gaffar, Sh. Sarfaraz Asif, Sh. Zakir Raza, Chaudhary

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Sudesh Singh, Sh. Madan Lal Kalkal, Sh. R.K.Kochar, Sh. Abdul Rauf, Sh. Nafees Ahmed, Dr. S.P.Gautam & Sh. Md. Danish, Ld. Counsels for applicant/accused as also by Sh. Rakesh Kumar, Ld. Addl. PP for the State assisted by SI Surendra Sharma from Crime Branch.

3. Ld. Counsels for applicants/accused argued that applicants are in JC since 21.12.2019 except applicants Mohd. Shoib & Mohd. Amir, who are in JC since 05.01.2020. It has been argued that some of the applicants were even not present at the spot and those who were present, were peacefully protesting against CAA. It has been further submitted that there is delay of more than 5 hours in registration of case FIR. Ld. Counsels for applicants/accused argued that ingredients of section 307 IPC are not attracted as admittedly the nature of injuries sustained by the police officials is simple in nature. Ld. Counsels for applicants/accused further argued that applicant Hazi Mehraj was not present at the spot at the time of protest and he has annexed the DVD of CCTV Footage which shows that he was at his residence till 4 pm. Ld. Counsels for applicants/accused further argued that applicants are not required for further investigation and they shall abide any condition imposed by the court. Ld. Counsels for applicants/accused has drawn my attention in respect of authorities reported as Anuradha Talwar. Vs. State of West Bengal, 2007 SCC Online Cal 421; Musa Khan & Ors. Vs. State

S. C. Acharya
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of Maharashtra, (1997) 1 SCC 733; Harjeet Singh Vs. State of Punjab, AIR 2002 SC 3040.

4. Per contra, bail applications are opposed by Ld. Addl. PP for the State assisted by SI Surendra Sharma from Crime Branch while submitting that all the applicants were part of unlawful assembly and pursuant to common object of unlawful assembly they pelted stones upon police party, due to which 7 police officials sustained injuries and two public vehicles were also damaged. It has been further argued that co-accused are yet to be arrested.

5. In brief, as per FIR which has been registered on the statement of HC Sunil PS. Seema Puri, on 20.12.2019 a protest against CAA was being organised by Hazi Tahir Siddiqui, R/o. Old Seema Puri in Shaheed Abdul Hamid Park, A Block, behind Jama Masjid, Old Seema Puri, Delhi despite repeated refusal for doing such protest. At about 3.15 pm, approximate 1000-1500 demonstrators being led by Hazi Tahir Siddiqui, Mohd. Bilal, Salim Pehalwan, Addhan Khan @ Bada Guddu, Shakil Alwi, Hazi Chand, Hazi Mehraj, Shafiq, Ibrat & Majid, who were known to him previously came at Seema Puri Gol Chakkar from Jama Masjid while raising slogans against CAA, on which senior officers while using public announcement system informed them that permission of demonstration has not been given by competent authority and therefore, the crowd is

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unlawful and asked them to go to their houses after ending demonstration but Hazi Tahir Siddiqui, Mohd. Bilal, Addhan Khan @ Bada Guddu, Shabban, Shakil Alwi, Imran Kallu, Hazi Chand, Hazi Mehraj, Shafiq, Ibrat & Majid did not follow the instructions and started raising slogans with their unknown companions. They were carrying ply cards in their hands against the CAA and these leaders instigated the crowd that they will get fulfill their demands after Jaming the GT Road. SHO again instructed the demonstrators to disperse but they did not follow and started proceedings towards Apsara boarder. When police party tried to stop them, they alongwith their unknown companions started pelting stone on Police party and also damaged DTC Bus and PCR Van. Sh. Rohit Rajbir, Addl. DCP also came alongwith his staff from Apsara Boarder side and tried to make understand the crowd but they did not mend and Mohd. Bilal and Shakeel Alwi instigated the crowd to kill the police officials. All these leaders and crowd pelted stones upon police party due to which Sh. Rohit Rajbir, his staff, SI Pawan, Ct. Pradeep sustained injuries and in order to control unmanaged crowd Rohit Rajbir Singh, Addl. DCP fired some rounds in air. If Rohit Rajbir would not have fired in the air, the agitated crowd could have killed the police. In the meantime, he alongwith other staff while using minimum force apprehended Suaib, Rajaulah Khan, Mohd. Sabir, Nisar, Anis, Waqar, Amiruddin, Abdul Kalam & Amjad Khan. In case these persons would not have been apprehended they might have

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damaged Government and private properties after reaching at GT Road.

6. Right to protest is recognized as fundamental right in a democracy but this right of peaceful protest and open criticism of Govt. policies do not extend to disturb the public order i.e public peace, safety and tranquility. The Constitution of India also prohibits a person from making any statement that incites people to commit an offence. In this regard a query is raised from IO whether any of the applicant is being depicted in CCTV Footage or in the video being played by News Channels or in Social Media while pelting stones or causing any damage to public property or to the police officials. IO submits that two of the applicants namely Mohd. Shoib and Mohd. Amir were arrested after being identified in CCTV Footage but they are not being depicted in the said footage while throwing stones or causing any damage to the public property. As far as applicant Hazi Mehraj is concerned, it is alleged in the FIR that he also incited the crowd and in the supplementary statement of the complainant it is mentioned that he snatched danda from HC Sunil Kumar-complainant and gave to someone else but why this fact was not mentioned by him in his complaint, on the basis of which present FIR was registered is not explained. Applicant Hazi Mehraj has also annexed CCTV Footage alongwith his application claiming that till 4 pm he was present at his house. As per report of Senior Medical Officer, Jail Superintendent,

S. C. Acharya
A. S. J

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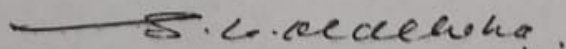
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S. C. Acharya
A. S. J

applicant Amjad Khan was having head injury and he also informed that he was taking some psychiatric medicine from IHBAS and therefore, Jail Superintendent planned to get him examined from Psychiatrist. One another applicant namely Amiruddin also sustained soft tissue injury on his foot and is provided treatment from the Jail.

7. Keeping in view the totality of the facts and circumstances of the case and the fact that most of the applicants are in JC since 21.12.2019, they are admitted to bail on their furnishing personal bond in the sum of Rs.20,000/- each with one surety each in the like amount to the satisfaction of Ld. MM/Link MM/duty MM concerned subject to the conditions that (1) applicants shall join the investigation as and when directed by IO/SHO; (2) applicants shall not do any act which may disturb the public peace; (3) applicant shall provide their mobile phone numbers to the IO & (4) applicants shall put their appearance on 19th of January, 2020 between 2 to 4 pm at PS Seema Puri, where the IO/SHO shall make endeavour to remove the doubts of the applicants in respect of CAA.

A copy of this order be given dasti to Ld. Counsels for applicants/accused as well as IO.



(Sanjeev Kumar Malhotra)
ASJ-02/E-Court/Shahdara
KKD Courts/Delhi/10.01.2020

b/m attached