

IN THE COURT OF SH. AMITABH RAWAT, ADDITIONAL SESSIONS
JUDGE-03, SHAHDARA DISTRICT, KARKARDOOMA COURT, DELHI

Bail Application No. 2058-2020

FIR No.67/2020

PS- Jyoti Nagar

U/S. 147/148/149/427/436 IPC

State Vs. Ajay

17.11.2020

Present : Sh. Rajeev Krishan Sharma, Ld. Special Public Prosecutor for
the State.

Ms. Arti Gupta, Ld. Counsel for applicant/accused Ajay.

IO/ASI Tikam Singh.

Arguments on the bail application heard.

1. Ld. Counsel for the accused has submitted that the present case was registered on 28.02.2020 at P.S. Jyoti Nagar though the incident is of 25.02.2020. It was further submitted that accused is 21 years old and is the sole bread earner of his family and the only son of his family. He is a student of 11th class and also took classes of the children of his areas and has no other source of income. The father of accused is a patient of epileptic double (mirghi ke dohre) and heart patient. There is no other family members to look after the father of the accused and the mother of accused is also confined to bed for last many years and she has been vomiting blood for the last ten days and there is no hope of her life for long.

It was further submitted that due to riots in Delhi on 25.02.2020, many FIRs were registered at different places. The FIR No. 83/20, 88/20, 91/20, 71/20 & 74/20 were also registered at P.S. Jyoti Nagar and accused was falsely implicated because these FIRs have shown different places and accused cannot be involved in these case at the same time. He has got ibail in other cases.

It was strongly argued that the witness Aslam is a witness against Ajay in number of cases, which are pertaining to different locations.

It was further submitted that charge-sheet has already been filed and the accused is no more required for custodial interrogation. Other accused persons have been enlarged on bail in this case. Accused is in custody for more than 05 months.

It was submitted that there is no evidence, no public witness and no CCTV footage against the accused.

It was thus prayed that accused may be granted bail in the present case.

2. On the other other hand, Ld. Special PP for State has argued that the present case was registered on the complaint of complainant Javed Khan who stated that on 25.02.2020, some unknown persons damaged his shop i.e.

Khan Accessories at Shop No. 2/11, Kamal Market, Ashok Nagar, Shahdara, Delhi and destroyed his shop and put it on fire.

It was stated that accused Ajay and Gaurav Panchal were arrested in case FIR No. 60/20 under Section 147/148/149/427/436 IPC on 18.04.2020 and in that case, accused Ajay made disclosure regarding his involvement in the present case. Public/eye witness Mohd. Aslam and Beat Officer HC Ravinder have identified the accused. Charge-sheet has already been filed in the court on 07.05.2020. It was further submitted that accused was an active member of unlawful assembly which committed the offence.

It was prayed that bail application may be dismissed.

3. I have perused the application, IO's reply and the charge-sheet.

4. (a) The present case was registered on the complaint dated 28.02.2020 of complainant Javed Khan who stated that mob entered his shop on 25.02.2020 (when he had gone to Solan, outside Delhi) and ransacked the shop and burnt all the goods after taking them out. Thus complainant is not an eye witness to the incident. Also, delay of 03 days from the date of incident of 25.02.2020 and the date of registration of FIR on 28.02.2020 is explained.

(b) Admittedly, there is no CCTV footage against the accused.

(c) As per reply of the Investigating Officer, present applicant/accused Ajay was arrested in FIR No. 60/20 and made a disclosure about the involvement in the present case.

The said statement appears to be at variance with the statement of the public witness Md. Aslam, relied upon by the prosecution. As per the statement dated 18.04.2020 of the witness Md. Aslam, at the time of riots on 25.02.2020, he was stuck at Ashok Nagar, Meet Nagar, Wazirabad Road and he saw the present applicant/accused Ajay as part of the rioters damaging and burning one shop at 11, Ashok Nagar and accused has been arrested at his instance.

(d) Importantly, the statement of public witness Md. Aslam has been recorded on 18.04.2020 whereas the incident is of 25.02.2020.

(e) Strangely, there is supplementary statement of the witness Md. Aslam recorded on the same day as the main statement i.e. 18.04.2020, as per which, he led the police to near Neet Nagar, Railway Line bushes and pointed out to accused persons Ajay and Gaurav Panchal as having been involved in riots on 25.02.2020 and thus, two accused persons were arrested at his instance.

The look at the arrest memo of the said accused Ajay shows Md. Aslam as one of the witness. However, the place of arrest is not a public place as mentioned in his supplementary statement but Police Station Jyoti Nagar itself.

Even looking at the statement of Md. Aslam shows that it refers to one Car Accessories Shop at Gali No.11, Ashok Nagar but there does not appear to be any identification by the said witness of the said shop which is the shop in question in the present FIR.

f) The investigation in the present case leaves a lot to be desired. The accused is in custody since 18.04.2020 and the charge-sheet has already been filed.

5. In the totality of the facts and circumstances of the case as adumbrated above, the bail application under Section 439 Cr.P.C of accused/applicant stands allowed and accused Ajay is admitted to bail subject to furnishing personal bond in the sum of Rs. 20,000/- with one local surety of the like amount to the satisfaction of Ld. MM/Link MM/Duty MM subject to the following conditions:

(a) The accused shall neither leave the jurisdiction of NCT of Delhi without prior permission of the court nor shall he indulge in any kind of criminal activity.

- (b) He shall also not tamper with any evidence or contact any witness;
- (c) He shall attend the court on every date of hearing or as directed by court.

Application is accordingly disposed off.

(Amitabh Rawat)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated : 17.11.2020