

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

SC No. 163-2020 (RIOTS CASE)

FIR No. 59/2020

PS- Crime Branch, Delhi (Investigated by Special Cell)

U/S. 13/16/17/18 UA (P)Act, 120B r/w 109/114/124-A/147/148/149/153A/186/201/212/295/302/307/341/353/395/419/420/427/435/436/452/454/468/471/34 IPC & Section 3 & 4 Prevention of Damage to Public Property Act,1984 and Section 25/27 Arms Act

State Vs. Tahir Hussain & Others

28.10.2021

Vide Office Order No. Vide Office Order No. **8349-8372/Judl./SHD/2021,dated 01.10.2021** of the Ld. Principal District & Sessions Judge, Shahdara District, KKD Courts, Delhi, all the matters are being taken up by way of physical hearing in the Court, as per Duty Roster.

Present : Sh. Amit Prasad, Ld. Special Public Prosecutor for the State alongwith Inspector Mukesh Kumar, Inspector Lokesh, Inspector Anil, SI Manoj Kumar, SI Surender Sharma, SI Sunil and SI Vinod Rathi, on behalf of Investigating Officer(I.O)/Addl. DCP Sh. Alok Kumar.

ASI Raj Bahadur Gill, Pairavi Officer from Special Cell (through Webex).

1) Accused Khalid Saifi produced from J/C alongwith Ld. Counsel Ms. Praavita Kashyap (through Webex).

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2) Accused Isharat Jahan @ Pinki produced from J/C with Ld. Counsel Sh. Pradeep Teotia and Ms. Sarwer Jahan (through Webex).

3) Accused Meeran Haider produced from J/C (through Webex) alongwith Ld. Counsel Sh. Alok Saxena in court.

4) Accused Tahir Hussain physically produced from J/C alongwith Ld. Counsel Sh. Rizwan Khan (through Webex).

5) Accused Gulfisha @ Gul produced from J/C (through Webex) with Ld. Counsel Sh. Sanawar Chaudhary & Mohd. Hasan in court.

6) Accused Shafa-Ur-Rehman produced from J/C (through Webex) alongwith Ld. Counsel Sh. Amit Bhalla and Sh. Akshat Chaudhary.

7) Accused Asif Iqbal Tanha present on bail (through Webex) alongwith Ld. Counsel Sh. Siddharth Satija (through Webex) and Ms. Sowjhanya Shankar in court.

8) Accused Shadab Ahmed produced from J/C with Ld. Counsel Sh. Shivam Sharma (through Webex).

9) Accused Tasleem Ahmed produced from J/C (through Webex) with Ld. Counsel Sh. Sanawar Chaudhary & Mohd. Hasan in court.

10) Accused Saleem Malik @ Munna produced from J/C (through Webex) with Ld. Counsel Sh. Salim Malik in court.

11) Accused Mohd. Saleem Khan from JC (through Webex).

12) Accused Athar Khan physically produced from JC with Ld. Counsel Sh. Arjun Dewan (through Webex) and Sh. Varisha Sharma in court.

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13) Accused Safoora Zargar on bail with Ld. Counsel Sh. Ritesh Dhar Dubey and Ms. Muneeza Hamid in court.

14) Accused Sharjeel Imam produced from J/C (through Webex).

15) Accused Umar Khalid produced from J/C (through Webex) with Ld. Counsel Ms. Sanya Kumar in court.

16) Accused Faizan Khan on court bail with Ld. Counsel Ms. Azra Rehman (through Webex).

(17) & (18) Accused Natasha Narwal and accused Devangana Kalita on bail with Ld. Counsels Ms. Tusharika Mattoo, Ms. Kajal Dala (through Webex) and Sh. Kunal Negi in court.

A report from the Addl. Superintendent, Central Jail No. 10, Rohini, Delhi received regarding the supply of the charge-sheet to the accused Tasleem Ahmed in Jail. Same is taken on record.

1. The present case is at the stage of scrutiny of charge-sheet and accompanying documents under Section 207 of Code of Criminal Procedure (Cr.P.C, in short).

2. An application on behalf of accused Shifa-ur-Rehman, Gulfisha and Athar Khan, under Rule 629 of the Delhi Prison Rules, 2018; seeking certain directions to Jail Superintendent; and seeking directions to the Jail Authorities to take the applicant for a follow-up visit to the concerned doctor

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in accordance with prescription dated 18.12.2020 and to put the applicant on a high fiber diet, filed respectively.

Let all three applications be forwarded to the concerned Jail Superintendent for disposal, as per rules.

3. An application by accused Sharjeel Imam seeking directions to the Jail Authorities to make arrangements for consultation with an orthopedic doctor and provide him with special diet in his food considering his peculiar medical condition was filed and reply has been filed.

Perused.

Let concerned Jail Superintendent appear on the next date. Copy of application be sent to concerned Jail Superintendent.

4. Notes/submissions of accused Saleem Khan received from the Jail. Same are taken on record.

An application by accused Mohd. Saleem Khan seeking index of the charge-sheet and all the annexures was filed. Reply to the said application filed today.

Ld. Special Public Prosecutor submits that the present application is very confusing as it does not ask for anything except Index.

Since the counsel for accused is not present today, let it be kept for next date of hearing.

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5. Reply to the application under Section 451 Cr.P.C on behalf of accused Natasha Narwal seeking release on superdari of the mobile phone has been filed today. Copy be supplied to Ld. Counsel for accused.

6. Today, an application under Section 207 Cr.P.C has been filed on behalf of accused Umar Khalid for supply of deficient documents.

Ld. Special Public Prosecutor submits that he will reply in case there is some opposition regarding a particular documents, otherwise, he will supply the documents.

Copies on documents on which there is no opposition from prosecution, be supplied in advance.

Put up the said application on the next date of hearing.

7. Reply by the prosecution to the applications under Section 207 Cr.P.C of accused Sharjeel Imam and Khalid Saifi, has been filed today itself. Copies be supplied to the respective Ld. Counsels for these accused persons.

Since the replies were filed during courts hours, hence, I have not been able to read them as such. Therefore, arguments will be heard on the said applications under Section 207 Cr.P.C, based on the replies, on the next date of hearing.

There are also applications under Section 207 Cr.P.C. by accused Devengana Kalita, Natasha Narwal and Asif Iqbal Tanha.

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8. An application under Section 207 Cr.P.C by accused Safoora Zargar regarding supply of deficit/illegible/unsupplied documents was moved earlier.

Ld. Special Public Prosecutor and Ld. Counsel for accused submit that requisite compliance under Section 207 Cr.P.C has already been done.

Today, fresh application under Section 207 Cr.P.C by accused Safoora Zargar regarding supply of deficit/illegible/unsupplied documents in respect of supplementary charge-sheet filed. Copy supplied to the Ld. Special Public Prosecutor for the State.

Ld. Special Public Prosecutor submits that he will file reply to the said application after perusal of the same.

The same be done.

9. Ld. Counsels for other accused persons have requested for some time for moving application under Section 207 Cr.P.C.

10. Ld. Special Public Prosecutor submits that the prosecution has complied with the court directions dated 30.09.2021 and have been diligent in providing copies to the respective counsels for accused persons and filing replies to the applications under Section 207 Cr.P.C and there is no delay on their part. In fact, delay is occasioned by some of the counsels who have so far not moved any application. Generally, in so far as Section 207 Cr.P.C is concerned, Ld. Special Public Prosecutor submits that the personal data as

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contained in the mobile phone of the accused persons cannot be supplied to other accused persons in view of the privacy concern. He has shown the court, two sealed envelopes which contained photographs as taken out from the mobile phone. These photographs contain nude pictures, private intimate moments and as other self made porn video by accused persons.

It was submitted by Ld. Special Public Prosecutor that it is only a sample and the photographs and the porn video are of the accused themselves and thus, it cannot be supplied to anybody else.

It appears that there is a question of right of privacy of accused and supply of any such data, as asked for, will have an impact on personal lives of accused persons and thus, supplying of any photographs or video as contained in the mobile phone of accused to any other accused persons or even to the counsels of accused would not be possible.

Ld. Counsel for accused persons, present in the court, submit that it is a case of conspiracy for which they would require the contents of mobile phone of other accused persons who are stated to be related to each other and in the interest of the defence of the accused persons, this issue of supply of personal data including whatever video or photographs as are available in the mobile phones should not be closed and be kept open.

The other counsels for accused persons, present in the court as also through Webex, are apprised of the said issue and they have sought time for

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deliberating on the said aspect and for making submission on the next date of hearing.

11. All the Ld. Counsels who have not so far moved application under Section 207 Cr.P.C are directed to file it within two weeks with advance copy to the prosecution so that deficient copies can be supplied.

Put up for scrutiny of the documents for the purpose of Section 207 Cr.P.C on 23.11.2021 at 12.30 PM.

12. Copy of this order be sent to all the concerned Jail Superintendents for information and compliance. Copy of this order be also e-mailed to the all the Ld. Counsels for accused persons, Ld. Special Public Prosecutor as also to DCP (Special Cell).

At this stage, Sh. Talib Mustafa, Ld. Counsel for accused Sharjeel Imam has appeared before the Court. He has filed fresh vakalatnama on behalf of accused Sharjeel Imam. Same is taken on record.

Ld. Counsel for accused Sharjeel Imam submits that in his view the personal data/contents of the mobile phone of any accused person cannot be supplied to any other accused person as argued by other counsel. He submits that he will argue the said aspect on the next date of hearing.

(Amitabh Rawat)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 28.10.2021