

FIR No. 332/16
PS : Pahar Ganj
State v. Amit Nayak @ Bharat & Ors.

03.04.2018

Present: Sh.Wasi-Ur-Rehman, Addl. PP for the State.

Accused Himanshu on bail.

All remaining accused in JC.

Sh. Sunil Tiwari, Counsel for accused Tarush.

Sh. Rohan Kanhai, Counsel for accused Himanshu and Montu.

Ms. Madhu Kalia, Counsel for accused Prakash.

Only Investigating Officer is present.

Process of PW Chotey Lal received back after service through brother but the witness is not responding to call. Investigating Officer has just now contacted PW Chotey Lal on phone and told that he has expressed his inability to appear before the court because of some dispute in the village.

Assistant Ahlmad submits that inadvertently, he issued process of PW Dharminder (summoned for today) for 16.04.2018. Assistant Ahlmad assures to be careful.

In the meanwhile, order dated 28.2.2018 has been received from the Hon'ble High Court, which reveals that bail application filed on behalf of accused Tarush is coming up for hearing on 10.04.2018 and this court has been directed to

make endeavor to complete testimony of PW Chotey Lal. Since PW Chotey Lal has not come present, Investigating Officer present in court is directed to contact Chotey Lal and direct him to appear on 09.04.2018.

Ms. Madhu Kalia Advocate submits that she would not be available on 09.04.2018. Accordingly, cross examination of PW Chotey Lal on behalf of Counsel Ms. Madhu Kalia for accused Prakash shall be taken up on 16.04.2018, date already given.

PW Dharinder be informed not to appear on 16.04.2018.

Arguments on bail application no.106/18 filed on behalf of accused-applicant Daniesh heard. Wait for orders.

(Narinder Kumar)
Special Judge NDPS – 02 (Central)
Tis Hazari Courts, Delhi.03.04.2018

ORDER

This order shall dispose of bail application no.106/18 filed on behalf of accused-applicant Danish.

Present: Counsel for accused-applicant Danish.

Addl. Public Prosecutor for the State.

Learned Counsel for accused-applicant submits that co-accused Himanshu having been allowed bail, accused-applicant also deserves to be released on bail on the ground of parity.

Reference has also been made to the order dated 06.12.2017 passed by this court, vide which bail applications of the accused-applicant and two others namely Tarush and Montu were dismissed, to submit that State having not so far filed any application for cancellation of bail of Himanshu, accused-applicant Danish also deserves to be released on bail. On parity. Further, it has been submitted that PW Sunil Das, who was not examined by 06.12.2017 appeared in the witness box on 17.02.2018 but did not raised any accusing fingers against the accused-applicant, and even on this ground, accused-applicant is entitled to bail.

2. Learned Addl. Public Prosecutor opposes the bail application firstly on the ground that application for cancellation of bail granted to Himanshu accused could not be filed and that same shall be filed, for the reason that Learned Addl. Public Prosecutor, who appeared as a Substitute Public Prosecutor could not put forth true facts as regards Himanshu, that after refusal by the accused persons to participate in Test Identification Proceedings, PW Sunil had made statement before the police that the accused-applicant and others named therein were the assailants and that in the said statement, the witness had specified the role played by them.

3. It is true that PW Sunil Das has been examined by the prosecution as PW8 but he has identified only Prince accused as one of the three boys, who had initially come to the

place of occurrence with 2 others and again visited the spot within 10-15 minutes thereafter. It is also true that PW8 has not supported the case of prosecution regarding identification of the accused persons on 29.10.2016 at the time he is said to have visited Tis Hazari Courts. But Learned Addl. Public Prosecutor has pointed out that there are statements of other two witnesses Chotey Lal and Suraj to the effect that both of them on 29.10.2016 identified the accused-applicant as offender, after his refusal to participate in Test Identification Proceedings.

4. PW Chotey Lal was summoned for today but he has not been able to appear, as told by the Investigating Officer, because of some quarrel in the village. Prosecution has been directed to secure presence of PW Chotey Lal for 09.04.2018. Thereafter, Suraj PW shall be summoned.

5. In the given circumstances, court does not find any ground to release accused-applicant Danish on bail at this stage. As a result, bail application no.106/18 is dismissed.

(Narinder Kumar)
Special Judge NDPS – 02 (Central)
Tis Hazari Courts, Delhi.03.04.2018