

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

19.04.2017

Present: Sh. Sunil Tiwari, Counsel for the applicant.
Sh. Wasi-Ur-Rehman, Addl. PP for the State.
Arguments concluded on bail application no.
103/17 filed on behalf of accused Tarush. Wait for orders.

(Narinder Kumar)
Special Judge NDPS – 02 (Central)
Tis Hazari Courts, Delhi/19.04.2017

ORDER

Ld. Counsel for the applicant-accused submits that accused-applicant Tarush is about 18 years of age and that PW Chotey Lal while making statement u/s 161 Cr.P.C did not attribute any weapon to the accused-applicant and rather according to him, dandas were used in inflicting injuries on the person of Sunil Dass. Ld. Counsel further submits that the accused-applicant refused to participate in Test Identification Parade proceedings, he having been arrested on 29.10.16 and having been shown to the police and as such, no adverse inference can be drawn against him. Further, it has been submitted that no danda was recovered from the accused-applicant and as such he be allowed bail.

2. On the other hand, Ld. Addl. PP has strongly opposed the bail application on the ground that the accused-applicant was member of an unlawful assembly and in prosecution of the common object of said unlawful assembly, not only dandas, sharp weapon like knives were also used in inflicting injuries and that in the given facts and the circumstances, no adverse inference can be drawn against the prosecution in case PW Chotey Lal did not specify the weapons used by each accused-member of unlawful assembly. Further, it has been submitted that the accused-applicant failed to participate in the Test Identification Parade proceedings.

3. On 22.3.2017, charge for offences u/s 302, 307, 326, 326 and 323 IPC, all read with section 149 IPC has been framed against the eight accused persons including the accused-applicant. Case was registered on the statement of Sunil Dass. He specifically deposed about both the incidents and also about use of knives in inflicting injuries by the offenders on the persons of Vinod, Rahul, Azad and arvind @ Surender @ Bablu. In the opinion of the doctor, stab injury was observed on the dead body of Arvind Kumar @ Surender @ Bablu and the same was fatal in ordinary course of nature.

Since the accused-applicant was member of unlawful assembly and in prosecution of the common object of the said assembly, they caused murder of Arvind Kumar @ Surender @ Bablu, attempted to commit murder of Ajay and

also caused grievous injuries on the person of Rahul & Vinod and simple injuries on the person of Sunil Dass and case is coming up for PE on 04.7.2017 and 13.07.2017. Court does not find any ground to release accused-applicant on bail in view of the grave charges levelled by the prosecution. Bail application of accused Tarush is dismissed.

Announced

(Narinder Kumar)
Special Judge NDPS – 02 (Central)
Tis Hazari Courts, Delhi/19.04.2017