

FIR No. 666/2016
State Vs. Mohd. Kasim etc.
PS : Sarai Rohilla

09.05.2019

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

Counsel for complainant.

Counsel for accused-applicant Sahadat Hussain.

Arguments heard. Put up for order on bail
application at 4 pm.

(Neelofer Abida Perveen)
Additional Sessions Judge (Central)
Tis Hazari Court:Delhi
09.05.2019

At 4 pm

ORDER on B. A. No.182 of accused Shahadat Hussain

The application is for grant of regular bail under Section 439 CrPC on behalf of **accused Shahadat Hussain** in case FIR No. 666/16.

Ld. Counsel for the accused-applicant submits that the two of the co-accused have already been granted bail and several witnesses have already been examined on behalf of the prosecution. That the accused is apprehended and implicated only on the basis of a disclosure statement of the co-accused. That the countrymade pistol alleged to be used in the commission of the offence or any knife is not

recovered from the possession of the accused-applicant. Recovery of Saudi Riyals is planted upon the applicant-accused. That the applicant-accused himself surrendered. That no TIP was conducted. That the applicant-accused has been in custody for now over 3 years. That the applicant-accused has lost his brother and has an old and ailing father and that there is no one else to look after his old and ailing father.

Ld. Addl. PP on the other hand submits that the stolen Saudi Riyals have been recovered at his instance and on the date of the incident, he was in possession of a knife and taking into serious nature of the offence, accused-applicant is not entitled to concession of bail.

Heard.

FIR No. 666/16 is registered on the statement of Farhena Irfat that she is a housewife living at H. No. 313/84-B, Sector-4, Gali No. 6, Tulsi Nagar, Inderlok, Delhi. On 28.10.2016 at around 7 pm, she was at her home and her husband has gone out to Sadar Bazar when Kehkashan, who lives on the first floor of the building came to show her a letter and suddenly four persons entered forcibly and taped the mouth of Kehkashan and also put tape on her mouth. They were carrying guns and knives and were threatening to kill them. They removed the gold ornaments

that she was wearing i.e. gold bangles, ring, earrings and also took away some saudi riyals, 2 lac rupees cash, silver anklets from the almirah and her Iphone-6S and ran downstairs with the safe (*tijori*). That she shut the door after them and from the balcony started shouting *chor-chor*. Her brother Ayaaz was present in the Gali who alongwith other public persons caught hold of two of the offenders and the other two managed to escape.

Of the robbers, who were apprehended at the spot, one was accused Mohd. Kasim and the other was accused Gulam Mohd. The accused-applicant is not apprehended at the spot. They were interrogated and their disclosure statements were recorded on the basis of which third co-accused Mankoosh Ali and accused Kehkashan was arrested. The police also recovered the countrymade pistol with cartridges on the basis of the disclosure statements and at the instance of the said accused. CCTV camera footage was also verified but all the robbers were seen with their faces covered. Call details of the mobile phone number of accused Kehkshan, Mohd. Kasim and Mankoosh were also collected and verified and all these four accused were found in constant touch prior to and on the date of incident. The name of accused Shahdat has been taken by all the three co-accused Mohd. Kasim, Mankoosh and Gulam Mohammad

but he could not be apprehended at the addresses revealed and NBWs against him were obtained by the police.

Accused-applicant Shahadat Hussain himself surrendered on 18.12.2016 and Saudi currency note of denomination 10 Riyal, Saudi currency note of denomination 5 Riyal and five Saudi currency notes of denomination 1 Riyal were recovered at his instance kept in an almirah at his home.

Accused Kehkashan who is alleged to be the mastermind has been granted bail besides accused Mankoosh.

The complainant is examined as PW2 and has identified the applicant-accused as the person who was in possession of the knife on the date of occurrence and had removed valuables from the almirah and mobile phone of the complainant. No such knife is shown to have been recovered, however, at his instance. Charge under Section 397 IPC is not framed against the accused-applicant.

The prosecution has shown the recovery of two countrymade pistols before the arrest of the present accused at the instance of the co-accused. Saudi riyals are shown as recovery at the instance of the accused, however, PW2 has deposed that the cash and Riyals were removed by accused Gulam Mohd. who was apprehended by the public persons

in the street.

The accused is in custody since the date of his surrender i.e. 18.12.2016 and has suffered incarceration of over two years. The complainant has been examined and no purpose is to be served by keeping the accused-applicant incarcerated as trial is in progress and is likely to take sometime as prosecution is to examine 27 witnesses out of which 07 witnesses stand examined till date. It is a fit case now for grant of bail to the accused-applicant Shahadat Hussain. Accordingly, application is allowed and accused-applicant Shahadat Hussain is ordered to be released on bail upon his furnishing personal bond in the sum of Rs.25,000/- with two sureties in the like amount subject to the conditions that he shall not threaten or intimidate the witnesses or tamper with the evidence in any manner whatsoever and he shall remain present on each and every date of hearing and shall not delay the trial or interfere with the trial in any manner whatsoever and that he shall provide his mobile phone number to the IO alongwith those of the two sureties and shall not change his mobile phone number without prior intimation to the IO and shall not change his residential address without prior intimation to the IO and that every 15 days he shall appear before the IO/SHO PS Sarai Rohilla and affirm that he continues to

stay at the same address and has not changed his address.
The sureties shall also intimate any change of address to the
IO.

Bail application stands disposed of.

(Neelofer Abida Perveen)
Additional Sessions Judge (Central)
Tis Hazari Court:Delhi
09.05.2019