

State Vs Salman
FIR NO. 195/2019
PS Kamla Market
CNR NO. -DLCT01-004251-2021

13.12.2022

Present: Sh Virender Singh , Ld. Addl. PP for State.
Accused is present on bail with Ld. Counsel Sh
Nagender Singh.

Arguments on the point of charge heard. Record
perused.

Ld. Counsel for accused has forcefully argued that there is absolutely no piece of incriminating evidence against accused Salman and accused has been falsely implicated in the instant case. It is further submitted that at one point of time complainant alleges that accused was armed with pistol-like instrument whereas recovery of countrymade pistol has been alleged against accused. It is further submitted that there is no CCTV footage to prove the involvement of accused and no eye witness has been joined in the investigation. It is further submitted that no case under Section 365 IPC and 397 of IPC is made out against the accused.

On the contrary, Ld. Addl. PP has forcefully argued that at this stage, the court is not required to test the veracity of the prosecution witnesses. It is submitted that a prima facie case for commission of offence under Section 364-A/392/397/411/34 IPC is made out against the accused.

I have heard the rival submissions made by Ld. counsel for accused persons and Ld. Addl. PP and also carefully gone through the record.

In the case of **Sheoraj Singh Ahlawat v. State of**

Contd.....

State Vs Salman

FIR NO. 195/2019

U.P. reported in (2013) 11 SCC 476, the Hon'ble Supreme Court has observed that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom, taken at their face value, discloses the existence of all the ingredients constituting the alleged offence. The court is not expected to go deep into the probative value of the material on record and what needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At this stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.

In the case in hand, there are categorical allegations against the accused that on the fateful day accused alongwith his associates namely Uvesh(absconding) and another unknown person abducted and robbed complainant Asif, David and Pankaj at gunpoint, with an intent to snatch their Scorpio car bearing registration no.DL-4CNB7165 and also retained the said car thereby causing a reasonable apprehension in the mind of the victims/complainant that in case if they resist to the said snatching they shall be put to death/hurt.

In the teeth of categorical allegations leveled against the accused, mere absence of any CCTV footage or other eye

Contd.....

State Vs Salman

FIR NO. 195/2019

witnesses would not come to the rescue of the accused. Refusal to join the TIP proceedings goes a long way against the plea of false implication. At this stage, the prosecution witnesses cannot be disbelieved. There is sufficient material available on record to put the accused on trial. Considering the nature of allegations and material available on record, I am of considered opinion that a **prima facie case u/s Section 364-A/392/397/411/34 of IPC is made out against accused Salman.** Formal charge framed accordingly against the accused to which he pleaded not guilty and claimed trial.

Now to come up on **16.05.2023** for P.E.

Complainant be summoned first for said date.

IO shall also appear in person on said date.

(Dharmender Rana)
ASJ/Special Judge, NDPS
(Central) Tis Hazari Courts
Delhi/13.12.2022