

CNR No. DLNE01-000313-2014

IA No. 08/2021

SC No. 44777/2015

Faisal @ Dawood Vs. State

In re:

FIR No. 548/2013

PS: Seelampur

U/s: 302/307/120-B/201/34 IPC

& Sec. 25/27 Arms Act

18.03.2021

File is taken up on the application for surrender cum bail u/s. 439 CrPC filed on behalf of applicant/accused Faisal @ Dawood.

Present: Sh. Mohd. Irfan, Ld. Counsel for the applicant with applicant.

The applicant has surrendered before the court. He is taken into custody.

Reply of the bail application filed. Submissions on the bail application heard.

It is submitted that the applicant is in custody since the day when he was arrested till August 2020 when he was admitted on interim bail. It is submitted that the applicant has not misused the concession of interim bail and that other co-accused persons namely Mohd. Jamal, Mauzzam @ Zameel, Wasim, Azhar and Javed are already granted bail on 09.10.2020, 21.11.2020, 24.12.2020, 19.01.2021 and 29.01.2021 respectively. It is submitted that most of the prosecution witnesses have been examined in the present case who have deposed contradictory to each other and even the complainant has taken u-turn from his complaint and there is no complaint whatsoever from any of the prosecution witnesses against the applicant during the period, he remained on interim bail.

It is submitted that the applicant has clean antecedents and has no criminal history in the past and that the investigation of the present case has

already been completed and trial of this case would take a considerable time and no fruitful purpose would be served by sending the applicant in jail again. It is submitted that applicant is ready to abide by any terms and conditions to be imposed upon him by the court.

On the other hand, the bail is opposed by Ld. Addl. PP with the submissions that the applicant is a hard core criminal and if is released on bail, he may evade the trial and may commit other crime also.

It is the settled proposition of law that at the time of dealing with the bail application, mini trial is not permissible and court is not required to go into depth while appreciating the evidence against the applicant. In the present case, the effect of contradictions in the testimony of witnesses and the effect of taking U-turn on the aspect of identity of the assailants in the cross-examination of complainant and PW-5 is to be dealt with upon completion of the trial. All the injured/eyewitnesses except one have been examined in the court. The court may impose the conditions upon the accused to ensure the fair trial and protecting the remaining witnesses.

Considering the submissions in the light of record available in the file, period of custody and that there is no likelihood of early trial due to pandemic situation, I am of the view that case is made out to admit the applicant Faisal @ Dawood on bail. However, it is made clear that if the applicant is found involved in approaching the witnesses of the case directly or indirectly then his bail will be cancelled and he will not be considered during the trial to be released on bail. The applicant be released from the custody on furnishing bail bond in a sum of Rs. 50,000/- alongwith one surety in the like amount. Application disposed off accordingly. Copy of order be provided to the parties.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ/
North East/Delhi/18.03.2021