

CNR No. DLNE01-001929-2019
SC No. 144/2019
State Vs. Afzal Ahmad @ Chote & Ors.
FIR No. 37/2019
PS: Dayal Pur

25.08.2021

Present: Sh. Masood Ahmad, Ld. Addl. PP for the State with
Insp. Takeshwar Singh and Insp. Hukam Singh.
Sh. Manish Kumar Singh, Ld. Counsel for accused
Charanjeet @ Dabbu.
Sh. Kapil Singhal, Ld. Counsel for accused Sunil
Malik @ Sonu.

Further submissions on the bail applications moved
on behalf of accused Charanjeet @ Dabbu and Sunil Malik @
Sonu are heard and the record is perused.

The present case was registered on the statement of
one Sanjay Kumar who was accompanying with one Subhash
Rawat in his car and fire was made upon the car in which
Subhash Rawat received gun shot injuries and scummed to his
injuries. Sanjay Kumar has alleged about the role of accused
Afzal @ Chotte who was riding on a scooty upon which two
more boys were with him. The complainant has also stated about
the presence of two more boys having pistols in their hands on
motorcycle which was following the car.

During the investigation, the said Afzal Ahmed @
Chotte was apprehended and thereafter, both the applicants were
apprehended as it was found during the investigation that they
were also involved in the incident and had fired upon the car. The
IO picked up four empty cartridges of 9 mm, one lead and three
live cartridges from the spot and sealed the same with his seal
impression of TS vide seizure memo dated 01.02.2019. The

packet was given Mark A.

The IO also seized two cartridges of 9 mm, two cartridges of 7.62 mm and one live cartridge from the place of incident and sealed the same with his seal impression of TS vide seizure memo dated 01.02.2019. The packet was given Mark B.

IO also recovered one pistol of 32 bore from the custody of accused Charanjeet @ Dabbu when he was apprehended on 19.04.2019.

All the exhibits were sent to FSL for expert opinion and report is given on 03.12.2020 about examination of the exhibits by the Senior Scientific Officer (Ballistic) vide No. SFSL DLH/6550/BAL/1197/19 dated 03.12.2020. As per the said report, it is mentioned at serial no. 2 that parcel having seal impression of TS was received and it was examined which was having two 9 mm cartridges marked as exhibit A5 and A6, three 9 mm cartridge cases marked as EC1 to EC3, one 7.65 mm cartridge case marked as exhibit EC4 and one metallic piece marked as exhibit MP1. Thus, one cartridge which is marked as exhibit EC4 of 7.65 mm was not seized and was put in a packet Mark A by the IO.

As per the expert opinion, exhibit EC4 has been fired through the improvised pistol of 7.65 mm which is exhibit F1. Exhibit F1 is given to the pistol which was sent to the FSL with four 7.65 mm cartridges and one percussion cap which was found inside the pistol. The said pistol is stated to be the same which was recovered from the possession of accused Charanjeet @ Dabbu at the time of his apprehension on 19.04.2019.

Thus, non-matching of the articles seized and sealed during the investigation and the articles received by the FSL,

creates suspicion on the case which must be given to the accused as per law. Thus, at this stage, without commenting on the merits of the case, considering the mis-matching of the articles and the period of custody and that the case is at initial stage and its trial will take its own time, I am of the view that the applicant may be admitted on bail. As such, the application of applicant Charanjeet @ Dabbu is allowed and he is ordered to be released from custody on furnishing personal bond in a sum of Rs. 50,000/- with one surety in the like amount.

So far as the application of co-accused Sunil Malik @ Sonu pertains, the same is also allowed considering the fact that co-accused Charanjeet @ Dabbu has been admitted on bail on the ground that trial will take time and that accused Afzal @ Chotte is also on interim bail with co-accused Amit @ Sachin and accused Arif @ Taslim is on regular bail. He is ordered to be released from custody on furnishing personal bond in a sum of Rs. 50,000/- with one surety in the like amount. Both the applicants are directed not to make any effort to contact the witnesses of the case directly or indirectly during the period of trial and they will also furnish details as per Annexure B as per order dated 28.06.2021 of the Hon'ble High Court of Delhi passed in CrI. M. C. 5328/2013 Sunil Tyagi Vs. Govt. of NCT of Delhi. Copy of order be provided to the parties and be also sent to the Superintendent Jail concerned for information.

Case file be put up on 29.09.2021 (Physical Hearing) for arguments on charge.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ/
NE/KKD/Delhi/25.08.2021