

IA No. 13/22
SC No. 294/2022
State Vs. Amir @ Sahil
FIR No. 443/22
PS: Bhajan Pura
U/sec. 302/307/34 of IPC & 25/27/54/59 of IPC

24.03.2022

Present: Sh. Vikas Sharma, learned Counsel for the applicant/accused Amir @ Sahil.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.
IO/Inspector Rajnikant.

The matter is fixed for hearing arguments on the application for grant of bail filed by this applicant/accused Amir @ Sahil.

IO has filed the reply to the bail application, copy thereof, has been supplied to ld. counsel for this applicant/accused Amir @ Sahil.

I have heard Ld. Counsels for the parties.

The matter stands passed-over till 4:00 PM for order on the application for bail.

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/24.03.2023

At 4:10 PM

Present: None for the applicant/accused Amir @ Sahil.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.

The matter was passed-over till 4:00 PM for order on the application for grant of bail filed by the applicant/accused Amir @ Sahil. Vide my separate detailed order of even date, the said application has been **dismissed**.

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/24.03.2022

IA No. 13/22
SC No. 294/2022
State Vs. Aamir @ Sahil
FIR No. 443/22
PS: Bhajan Pura
U/sec. 302/307/34 of IPC & 25/27/54/59 of IPC

24.03.2022

**ORDER ON THE APPLICATION UNDER SECTION 439
Cr.P.C FOR GRANT OF BAIL FILED BY THE
APPLICANT/ACCUSED AAMIR @ SAHIL.**

1. This order of mine will dispose of the application under Section 439 of Cr.P.C for grant of bail filed by the applicant/accused Amir @ Sahil.

2. I have heard Ld. Counsels for the parties.

3. Shri Vikas Sharma, the learned counsel for the applicant/accused Amir @ Sahil has submitted that this applicant/accused was arrested way back on dated 23.06.2022 and since then he, is behind bars. He has further submitted that charge could not be framed as FSL report is not filed and further submitted that he does not want to argue on this application on merits of the case, but, in view of period of incarceration spent by this applicant/accused behind bars, he has prayed for grant of bail to this accused. He has relied upon the following judgments:-

***(1) Chitta Biswas @ Subhas v. The State of West Bengal
SLP(Crl.) No.8823/2019 ;***

***(2) Sandeep Singh @ Sonu v. State of Punjab, CRM-M-34488-
2022(O & M)***

4. On the other hand, Sh. Sukhbeer Singh, learned Additional Public Prosecutor for State has vehemently opposed this application and submitted that an altercation between Siraj and Aman was held and this applicant/accused Aamir @ Sahil alongwith co-accused Saif Ali @ Sibbu had called the said Aman and pressurized him to tender a apology to one Siraj and this applicant/accused Aamir @ Sahil had asked to the co-accused Saif Ali @ Sibbu to fire on Aman and the co-accused Saif Ali @ Sibbu had fired on Aman, but, he managed to safe himself and the bullet injury was received by one Shahjad, who was standing on a meat shop and he got expired from the same injury and submitted that statements of Aman and another witness Arbaj were also recorded U/sec. 164 of Cr.P.C, as well as, U/sec. 161 of Cr.P.C and further submitted that fire arm used in the commission of offence of murder has been recovered from the house of this applicant/accused Aamir @ Sahil and further submitted that charge sheet has been filed U/sec. 302/307/34 of IPC for committing the murder of Shahjad as this applicant/accused Aamir @ Sahil alongwith co-accused had also attempted to kill the Aman and since the fire arm was recovered from the house of this applicant/accused Aamir @ Sahil at his instance, so, offence punishable U/sec. 25 of the Arms Act is also made out against the applicant/accused and submitted that in

view of delay caused by the FSL in preparing the FSL result and in view of period of incarceration spent by this applicant/accused behind the bars, this applicant/accused Aamir @ Sahil cannot be granted bail. He has further submitted that the witness Aman managed to safe himself in the said attempt, and if this applicant/accused is released on bail, it may be proved to be fatal for the life and liberty of the Aman, so, he does not deserve concession of bail and prayed for dismissal of the bail application of this applicant/accused.

5. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

6. The perusal of the record reveals that in the case in hand, the co-accused is alleged to have fired on Aman, but, Aman managed to safe himself, but, the said bullet injury caused to an another person Shahjad and he got expired from the same bullet injury. Since, the fire arm which is alleged to have been used in the commission of offence of murder, is alleged to have been recovered from the house of this applicant/accused Aamir @ Sahil. No doubt, that the learned counsel for this applicant accused has relied upon the judgment passed by the Hon'ble Apex Court in *Chitta Biswas @ Subhas v. The State of West Bengal(Supra)*, but, the facts and circumstances of the said case

were totally different from the facts of the present case, as the said case is relating to the offence punishable U/sec. 21 of NDPS Act. He has also relied upon another judgment *Sandeep Singh @ Sonu v. State of Punjab (Supra)* but, the facts and circumstances of the said case were also totally different from the facts of the present case, as the said case is relating to the offences punishable U/sec. 21,25,29 of the NDPS Act and Section 307/427/270 r/w Sec. 34 of IPC.

7. The learned counsel for the applicant/accused has submitted that this applicant/accused is not seeking bail on merits of the case, but, he is seeking bail on the ground of the period of incarceration spent by applicant/accused, behind bars, but, in view of the above mentioned facts and circumstances and since this applicant/ accused is alleged to have committed heinous offences punishable U/sec. 302/307/34 of IPC and U/sec. 25 of Arms Act, and if this applicant/accused is released on bail, it may be proved to be fatal for the life and liberty of the prosecution witnesses, only on the basis of period of incarceration spent by him behind bars, he does not deserve the concession of bail. So, taking into consideration the nature of accusation and gravity of the offences alleged to have been committed by this accused and likelihood of his tempering with prosecution evidence, application of this **applicant/accused Amir @ Sahil for grant of bail is hereby dismissed.**

8. In the above said terms, the application for grant of bail filed by the applicant/accused Amir @ Sahil stands disposed of.

9. Copy of order be provided to the parties.

10. Attested copy of this order be sent to the concerned Superintendent of Central Jail, Tihar for supplying the same to the accused.

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/24.03.2022