

IA. No. 1/23 in SC No. 439/23
STATE Vs. TARUN
FIR NO. 250 /2023
P.S. Model Town
U/s 307/325/34 IPC

19.08.2023

This is an application under Section 439 Cr.P.C. for grant of bail moved on behalf of applicant/accused Avinash.

Present : Mr. Harvinder Kumar Nar, Ld Addl P.P for the state.

Mr. Utsav Pandey, Ld. Counsel for the applicant/accused.

Reply to the bail application filed. Copy supplied.

1. Brief facts of the case are that the present FIR had been registered on 08.03.2023 complainant Shaurya Kapoor alongwith three of his friends was playing Holi and at around 04:00 PM complainant alongwith his friends had gone to buy goods from a nearby street. That in the meantime a white colour tempo had approached them at a very high speed which could have hit one of the complainant's friend i.e. Arpit upon which complainant had asked the tempo driver to drive safely and slowly, after that applicant/accused Tarun who had been sitting on the adjacent seat of the tempo driver had heated conversation and scuffle with complainant and his friends. Before leaving the area, accused Tarun had called his friends and simultaneously complainant had made a call to police. That after sometime Tarun had come to the complainant's residence and that 3-4 boys including the applicant equipped with dandas and bricks had come upon to the stairs on the second floor of complainant's flat and had started beating him and as a result, the complainant had sustained injuries on forehead and was later admitted to the hospital.

2. It is argued by Ld. Counsel for applicant/accused that the applicant/accused is an innocent person and he has been falsely implicated in the present case. It is further submitted that applicant/accused is in JC since 10.05.2023. Prayer is made for grant of bail on parity as the other co-accused persons namely Sumit Kumar and Ashwani Makhija had been enlarged on bail by the concerned Ld. Sessions Court and accused Tarun by the Hon'ble High Court vide orders dated 07.08.2023. It is also submitted that there is change in circumstances since the dismissal of earlier bail application and charge-sheet has now been filed.

3. On the other hand, Ld. Addl. PP for the State has vehemently opposed the bail application and argued that allegations against the applicant / accused are serious in nature. There is also threat perception alleged by the complainant. Prayer is made for dismissal of the bail application.

4. I have heard Ld. Counsels for the parties and perused the record carefully.

5. As per the chargesheet role assigned to the applicant/accused is that applicant/accused had hit the complainant with brick. However, now investigation is complete and chargesheet has been filed. The other co-accused persons namely Sumit Kumar and Ashwani Makhija have been enlarged on bail by the concerned Ld. Sessions Court and accused Tarun by the Hon'ble High Court vide orders dated 07.08.2023. The accused was reported to be involved in another FIR bearing No. 679/20 U/s 323 IPC which is stated to have already been settled by the complainant in that case and as such the same was aailable

offence. There is no other involvement of accused in any other similar case. The applicant has remained in custody for almost three months and is a young boy.

6. Seeing the totality of facts and circumstances, taking a lenient view, applicant/accused **Avinash is hereby enlarged on bail on furnishing of bail bond for a sum of Rs. 25,000/- with one surety each of the like amount, who is permanent resident of Delhi/NCR, to the satisfaction of concerned Ld. MM/Link MM/Duty MM** but subject to the following conditions:

- (a) The applicant/accused shall attend the court proceedings regularly.
- (b) That in case of change of his residential addresses, he shall intimate the Court about the same.
- (c) The accused shall not leave the country without prior permission of the Court.
- (d) The accused shall not indulge into similar offence in the event of release on bail.
- (e) The applicant/accused shall not try to contact or influence the witnesses, in any manner, directly or indirectly.

Application stands disposed off.

7. *It is clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.*

8. Copy of the order be given *dasti* to the Ld. Counsel for the applicant/accused as well as be sent to concerned IO, concerned Jail Superintendent, Ld. Secretary, DLSA (North), through all possible modes, as per rules.

(Shefali Sharma)
Addl. Sessions Judge-02(North)
Rohini Courts Delhi/19.08.2023