

07.08.2023

One of the regular stenographer and regular Ld. Addl. PP for State are on leave today.

Present: Sh. H. K. Nar, Ld. Subt. Addl. PP for the State.
Accused Ajay Rathi, Sultan and Sumit @ Pankaj
produced from JC.
Accused Sonu @ Himmat, Rakesh @ Raka and
Sandeep @ Dhillu produced from JC through VC.
Accused Amit present on bail.
Sh. Sumeet Shokeen, Ld. Counsel for accused Sumit
@ Jhumka, Sonu @ Himmat, Sultan @ Krishna
Kumar, Rakesh @ Raka, Ajay Rathi and Sandeep @
Dhillu.
Sh. Paras Puniya and Sh. Lavish Chhikara, Ld.
Counsel for accused Amit.

ORDER ON CHARGE

1. On 04.02.2021, at about 10:20 PM, an information was received at PS Kanjhawala that a patient was brought dead at MLS Cygnus, Rama Vihar hospital with alleged history of fire arm injury. The information was reduced into writing in form of DD no. 107A. Same was assigned to ASI Rajender for further necessary action.
2. The identity of the patient was subsequently revealed as Kulbir Mathur @ Golu.
3. On 09.02.2021, SI Surender from Special Staff

informed the IO of the present case that an accused namely Ajay Rathi was arrested in FIR no. 52/22, dated 09.02.2021 u/S 25 Arms Act Special Cell, Lodhi Colony and he has disclosed his involvement in the present case. The weapon of offence was also recovered from his possession. Ajay Rathi was formally arrested in this case and his disclosure statement was recorded.

4. In his disclosure statement, Ajay Rathi revealed that he came into contact of accused Himmat Chiku through one Nishu Malik. Himmat Chiku was lodged in Tihar Jail. Ajay Rathi started talking to Himmat @ Chiku through Whatsapp calls. On instructions of Himmat Chiku, Ajay Rathi met Kishan @ Sultan, Rakesh @ Raka, Deepak and Sumit @ Jhumka. They all had instructions from Himmat Chiku and Sandeep @ Dhilu to eliminate Kulbir Mathur, who was connected and providing financial assistance to Dinesh Karala, member of Jitender Gogi gang. They started residing in house no. 103, Mangolpur Kalan, Sector-02, Rohini Delhi to keep track of the activities of the deceased. On 04.02.2021, they all reached at an identified place and shot the deceased Kulbir Mathur dead.

5. During investigation, one Santosh who had facilitated the room to the accused persons identified all the accused persons through CCTV footage.

6. Allegations against accused Amit are that he had provided accommodation to accused Sultan @ Krishan in his

room in Hotel Sai Place, Azadpur on 16.06.2021 and 17.06.2021 despite having knowledge that he was wanted in the murder of Kulbir Mathur. During interrogation, accused Amit revealed that he used to talk to Sandeep @ Dhillu through his mobile phone on whatsapp calls. He further revealed that Sandeep @ Dhillu had also made him talk to Sunil @ Tillu. He further revealed that he had facilitated accommodation to Krishan @ Sultan on instruction of Sandeep @ Dhillu. He had kept accused Sultan @ Krishan in his room on a fake ID in name of Akshay Malik.

7. On completion of investigation, police has chargesheeted accused Ajay Rathi, Sumit @ Jhumka, Sonu @ Himmat, Sandeep @ Dhillu, Sultan @ Krishan, Rakesh @ Raka for offence u/S 302/120B/115/34 IPC and U/S 25/27 Arms Act. Accused Amit has been charge sheeted for offence u/S 212 IPC. Accused Deepak @Sonu could not be arrested and accordingly he has been declared PO.

8. Arguments on charge heard. Record perused.

9. Accused Ajay Rathi, Sumit @ Jhumka, Sultan @ Krishan, Deepak @ Sonu (PO) and Rakesh @ Raka were residing together in house no. 103, Village Mangolpur Kalan, Sector-02, Rohini, Delhi. PW Santosh has identified them as the persons who were residing at the aforesaid address before the commission of crime. On the date of incident, they were seen together in CCTV footage. A pistol allegedly used in crime has

also been recovered from possession of accused Ajay Rathi. The evidence that accused persons were seen together on the date of crime in question and subsequent recovery of the weapon from one of them indicates that they had committed the murder of accused Kulbir Mathur @ Golu in furtherance of their common intention with fire arms. The evidence on record is sufficient to frame charges for offence u/S 302/34 IPC and 27 Arms Act against accused Ajay Rathi, Sumit @ Jhumka, Krishan @ Sultan and Rakesh @ Raka.

10. The investigating officer had mentioned in the charge sheet that accused Sumit @ Jhumka and Ajay Rathi used to talk to accused Himmat @ Chiku and Sandeep @ Dhilla on a mobile phone number 8295798340. IO obtained the location of the said mobile phone, wherein it was found near DDA land adjacent to Tihar Jail. It was also revealed that accused persons were connected to Sandeep @ Dhilla and Himmat @ Chiku through Internet App on another international number 13023072107.

11. During interrogation, accused Sandeep @ Dhilla and Himmat @ Chiku revealed that both the aforesaid mobile phones have been seized by jail authorities 15-20 days before the crime in question. One mobile phone has also been recovered from possession of accused Sumit @ Jhumka. The relevant data from the mobile phones may further disclose the conspiracy between the accused persons. Further, at the state of charge, court is not

supposed to weigh or deeply analyze the evidence. At this stage, court has to see a prima facie case only which is sufficient to raise grave suspicion. Even otherwise, offence of criminal conspiracy, by its very nature, is generally hatched in secrecy. Therefore, the direct evidences of criminal conspiracy are seldom available. Existence of conspiracy therefore, has to be inferred from the circumstances. In this case, the conduct of accused persons, recovery effected, the mobile number revealed and the motive of existing gang rivalry are sufficient to raise the requisite grave suspicion against them that they had committed murder of Kulbir Mathur in pursuant to a criminal conspiracy. Thus, the material is sufficient to frame charges for offence u/s 302 r/w 120B against accused Ajay Rathi, Sumit Jhumka, Himmat @ Sonu, Sandeep @ Dhillia, Sultan @ Krishan and Rakesh @ Raka.

12. Allegations against accused Amit are that harboured accused Sultan @ Krishan knowing that he was wanted in murder of Kulbir Mathur. It is argued on behalf of accused Amit that as per allegations, accused Amit had given shelter to accused Krishan @ Sultan in his room in Hotel Sai Palace, Azad pur on 16.06.2021 and 17.06.2021. Ld. Counsel for the accused has argued that to invoke an offence u/s 212 IPC, the prosecution must produce adequate material that the accused had knowledge that the person harboured has committed and is wanted in a particular case. In this case, accused Amit had given shelter to accused Krishan @ Sultan after more than four months of the alleged murder. There is nothing on record to indicate that

accused Amit had knowledge about the offence allegedly committed by accused Krishan @ Sultan.

13. As per the hotel records, accused Krishan @ Sultan had stayed with accused Amit in the fake name of Akshay Malik. No explanation had been put forth by accused Amit before IO that if Krishan @ Sultan was not known to him, why he permitted him to stay with him especially when he was carrying a fake ID in name of Akshay Malik. Not only this, accused Amit further revealed during his interrogation that he used to talk to Sandeep @ Dhillia in the Jail through Mobile no. 9711384314, 7027575356 and 9416685136. Further, presence of accused Krishan @ Sultan is seen with accused Amit in the CCTV footage of the hotel on 16.06.2021 and 17.06.2021. This evidence is sufficient to show that accused Amit had given shelter to accused Sultan knowing his criminal antecedents including involvement in the present case. Material is therefore adequate to frame charges for offence u/s 212 IPC against accused Amit.

14. Be put up for framing of formal charges on **01.09.2023.**

(BABRU BHAN)
ASJ-03, N/W, ROHINI COURTS
DELHI/07.08.2023