

SC No. 81/2020
State Vs. Pawan @Pahalwan etc.
FIR No. 308 /2019
PS. Gokul Puri

Physical hearing

11.11.2021

Present: Sh. R. K. Satyarthi, Ld. Addl. PP for the State.
All the accused produced from JC.
Sh. Himanshu Singh, Ld. counsel for accused Lalit
@ Amit and Pawan @ Pahalwan.
Sh. Sanju Gupta, Ld. Prody counsel for accused Sagar
@ Kapil @ Kala and Sachin @ Ankit and Rahul @
Tinku
Sh. R. K. Kochar, Ld. Counsel for complainant.

Arguments on bail already heard.

Ld. Counsel for accused Sachin @ Ankit has argued that accused has been falsely implicated in this case due to previous enmity between the parties, otherwise there was a delay of about 14 days in recording statement of injured after lodging FIR and even the versions of complainant and injured are also different. It is further argued that accused is a student of final year of graduation and has been lying in JC for the last three and half months and is not previously involved in any other case. It is further argued that now chargesheet has already been filed and trial would take time due to accused may be released on bail. It is further argued that accused surrendered himself before the court and even nothing has been recovered at his instance, whereas accused is ready to abide by all the terms and conditions of the bail and accused may be released on bail.

On the other hand, Ld. Addl. PP for State as well as Ld. Counsel for complainant has strongly opposed this application on the ground that accused persons have been threatening to complainant party despite being in custody and the release of accused on bail is definitely going to prejudice the security and safety of complainant /

injured. It is further argued that both the parties have previous enmity and release of accused on bail is definitely going to cause another incident against the complainant. It is further argued that accused has been specifically named in FIR and thereafter, he absconded and surrendered before the court only after declaring him PO, due to conduct of accused is not upto mark. It is further argued that release of accused on bail may hamper trial and this application is liable to be dismissed.

I have heard the arguments and perused the record.

Initially, this FIR was lodged on the basis of statement of complainant Omkar who had categorically deposed that he witnessed the incident from the balcony of his house that accused persons namely Pawan @ Pahalwan, Amit @ Lalit @ Mental, Rahul @ Tinku, Suresh Rana, Sachin @ Ankit and Sagar @ Kapil @ Kala were standing outside of his house and accused Rahul @ Tinku and Sagar @ Kapil @ Kala fired on his son, whereas injured Dharmender @ Monu has stated that all the abovesaid accused persons entered into his house and fired on him. This contradiction has been used by Ld. Counsel for accused to contradict the testimonies of both witnesses, but the main fact is that all the accused in furtherance of their object assembled outside the house of complainant and fired on victim and caused him grievous injuries. Multiple bullets were fired which resulted into multiple injuries by injured. Fire cartridges have also recovered from the spot which have prima facie supported the version of the prosecution that accused fired on the injured with intention to kill him. Multiple firing of bullets have also corroborated this fact that intention as well as object of accused persons was clear to kill injured.

So far the delay in recording the statement of victim, who was hospitalized, is concerned, it is to be seen during trial as to

whether it was deliberate or bonafide. Similarly, contradictions in the statement of both witnesses are also matter of trial. The medical evidence as well as recovery of cartridges have supported the version of the injured. The photographs of scene of crime coupled with PCR call have also corroborated this incident. Accused who participated in the incident knowingly cannot be released on bail just because he was first time offender or student of graduation. The conduct of accused that he fled away from the spot soon after the incident and his surrender only after proceedings u/s 82 Cr. PC makes him disentitled for any leniency.

In view of facts and circumstances of the case, I am of the opinion that accused is not entitled for bail, hence application of accused Sachin @ Ankit is hereby dismissed.

Copy of order be given dasti to Ld. Counsel for accused as prayed for.

Arguments on charge heard.

All the accused have conceded framing of charge.

Perusal of record shows that statements of complainant Omkar and injured Dharmender @ Monu have categorically proved that all the accused in furtherance of their common object assembled at the house of complainant and attempted to commit murder of the injured Dharmender @ Monu by firing. All the accused have been named in FIR and were together at the time of incident, whereas accused Rahul @ Tinku and Sagar @ Kapil @ Kala fired on the injured by their weapons, and medical evidence has supported the version of victim as well as complainant. As such, prima facie offence u/s 307 r/w 149 IPC is made out against all accused persons, whereas prima facie offence u/s 27 of Arms Act is made out against accused Rahul @ Tinku and Sagar @ Kapil @ Kala.

Charges under the abovesaid sections are framed against the accused persons, to which, they pleaded not guilty and claimed trial.

Put up for PE on **04.03.2022**.

All the material witnesses be summoned for the next date of hearing.

(Devender Kumar)
ASJ-02(NE), KKD/Delhi
11.11.2021