

SC No. 145/22
IA No. 01/22
FIR No. 377/21
PS Madhu Vihar
U/s 186/353/332/
307/429/34
IPC
State Vs. Mohd. Munir

08.07.2022

Present: Mr. Rakesh Kumar, Ld. Addl. PP for the State.
Mr. A.A. Khan, Ld. Counsel for applicant/accused.

Today this matter is fixed for orders on an application u/s 439 Cr.P.C. moved on behalf of applicant/accused for grant of bail.

Ld. Counsel for applicant/accused has submitted that applicant/accused is in JC since 09.11.2021 and he has been falsely implicated in the present case; that the incident had taken place on 24.10.2021 and applicant/accused was formally arrested on 09.11.2021 on the basis of disclosure statement of co-accused; that there is no CCTV Footage of the incident and the location of applicant/accused is not near the spot; that TIP has not been conducted; that applicant/accused has clean antecedents and is not a previous convict in any case; that applicant / accused is ready to furnish sound and reliable surety to the satisfaction of this court, therefore, a prayer for bail has been preferred.

Per contra, Ld. Addl. PP for the State has opposed the bail application while referring to the allegations mentioned in the FIR. He contends that applicant/accused is involved in

Contd.,

serious offence in which the police vehicle was hit and on firing towards the police by co-accused, all the accused persons fled away from the spot; that applicant/accused can commit the similar type of offence again; that applicant/accused may abscond from the court proceedings. Therefore, he has prayed for dismissal of the present bail application.

I have heard the arguments addressed on behalf of both the sides and perused the material available on record.

In brief, as per FIR, on 24.10.2021 at about 4 am, on the information of one motorcycle rider, complainant HC Naveen Kumar reached near Red Light Telco T-Point near the wall of nala where one Sedan car of white colour was found parked on the road facing Hasanpur Depot and one person was already seated on the driver seat in the said car. However, after seeing the complainant, who was in uniform at that time, 3-4 persons tried to run away from there in the said car and when the complainant tried to stop them, they hit his motorcycle due to which he fell down from the said motorcycle. Thereafter, Ct. Joginder, who was the pillion rider, also tried to stop the car, then the boy who was seated on the back seat of the car, fired upon him. Thereafter, the complainant tried to take out his pistol, but they again fired towards him and fled away from there. As per the arrest memo, the applicant/accused was arrested on 09.11.2021 from Pakbada, Muradabad.

It is worthwhile to mention that applicant/accused was arrested upon disclosure statement of a co-accused.

Contd.,

Investigation is complete and charge sheet has already been filed and case has been committed to this court. Further, no specific role has been attributed to the applicant/accused in the charge sheet apart from being present along with other co-accused persons. Since the applicant/accused is in JC since eight months, therefore, no purpose would be served by keeping the applicant/accused in further custody, more so, as charge is yet to be framed and recording of evidence is likely to take considerable time. Further, as per the previous involvement report filed by IO along with reply, applicant/accused is not found involved in any other case.

Importantly, the only incriminating circumstance against applicant/accused is recovery of blood stained clothes, that too after 18 days of date of incident along with refusal of TIP. However, that alone cannot be a reason to deny bail to applicant/accused as the effect and consequences of the same is a matter of trial.

Therefore, considering the overall facts and circumstances and without commenting on the merits of the prosecution case, this court is of the opinion that the present application deserves to be allowed.

Applicant/accused is admitted to bail on his furnishing personal bond in the sum of Rs.20,000/- with one local surety of like amount to the satisfaction of this court subject/Duty MM to the following conditions that;

Contd.,

- 1. Applicant shall furnish his address as well as his contact number to the Investigating Officer.*
- 2. Applicant and surety shall intimate this Court immediately upon any change in their addresses.*
- 3. Accused shall not tamper with the evidence nor shall indulge in any illegal activities during bail period.*
- 4. Accused shall keep his mobile switch on at all times during pendency of this case.*
- 5. Applicant/Accused shall not indulge in any similar offence.*

It is made clear that in the event of violation of any of the above conditions, the complainant/State shall be at liberty to move an appropriate application for cancellation of bail in accordance with law.

Application is disposed of accordingly.

(Vineet Kumar)
ASJ-02/E-Court (Shahdara)
KKD/Delhi/08.07.2022