

IA No.06/2021
State Vs. Asif and ors (**applicant Aamish @
Mohsin @ Bhura**)
FIR No. 492/2020
P.S. Seema Puri
under Sec. 307/120-B IPC

05.08.2022

This bail application is fixed for clarification/order.

ORDER

1. By way of this 3rd application under Section 439 Cr. PC, applicant/accused has sought regular bail for the aforementioned offences.
2. Ld. Counsel for applicant/accused has submitted that applicant/accused has been falsely implicated in present case; that present case is pending in this court and same is at the stage of evidence; that injured Jai Prakash-PW1 as well as complainant Aman-PW2 have already been examined and they have not supported the prosecution case and both of them even failed to identify the accused persons in the court; that there is no evidence against the applicant/accused to connect him with the present case; that applicant/accused is in JC since 10.11.2020. Ld. Counsel has requested for enlargement of applicant/accused on bail and has further submitted that applicant/accused is ready to abide by all the conditions imposed by the court if he is enlarged on bail.
3. Per contra, Ld. Addl. PP for the State has opposed the bail application while referring to the allegations in the FIR. A request for dismissal of present bail application has been accordingly made.

4. I have heard the rival submissions and perused the material available on record.
5. Before proceedings further, it may be noted that it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the cardinal principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and found guilty.
6. Now, advertng to the case in hand. The present case was registered on the complaint of complainant Aman @ Sohail who described about the incident of altercation of his brother with one Asif and he was called by said Asif near Ration Wali Gali; that when he reached there he found applicant/accused and co-accused Asif were sitting on scooty there; that thereafter applicant/accused extended filthy abuses and took out one country made pistol and asked the complainant as to how he had slapped his friend Asif; that thereafter he instantly fired a bullet shot at the complainant which somehow missed him and hit one passerby namely Jai Prakash. Charge-sheet in present case has been filed and after framing of charge against applicant / accused for the offences under Section 307/120-B IPC & 25/27 Arms Act, the matter is at the stage of prosecution evidence now. Admittedly, during the course of evidence, injured as well as complainant, who have been examined as PW1 and PW2 respectively, have failed to support the prosecution case and have not identified the applicant/accused in the court.

Applicant/accused has been in custody for more than 1.5 years now and the trial is likely to take considerable time to culminate.

7. Therefore, considering the facts and circumstances in totality, applicant/accused is admitted to bail on furnishing bail bond in the sum of Rs.20,000/- with one surety of like amount to the satisfaction of this court/Duty MM subject to the conditions that:-

- 1. Accused shall appear in the court on each and every date.*
- 2. Accused shall not threaten or influence the complainant or any prosecution witness in any manner whatsoever.*
- 3. Accused shall not tamper with the evidence nor shall indulge in any illegal activities nor shall commit any similar offence during the bail period.*
- 4. Accused and his surety shall intimate this Court immediately of any change in their addresses and shall also furnish their mobile numbers to the IO/SHO concerned.*

8. It is made clear that in the event of violation of any of the above conditions, the complainant/State shall be at liberty to proceed against applicant/accused in accordance with law. Nothing stated herein above shall tantamount to the expression of any opinion on merits of the case. Application is disposed of accordingly.

(Vineet Kumar)
ASJ-02/E-Court/Shahdara
KKD/Delhi/05.08.2022