

ID SC no. 318/2018

IA No.06/2020

State Vs.Rameshwar @ Chhutanki

FIR No.188/2018

P.S. Nand Nagri

U/s. 307/34 IPC

02.09.2020

Present : Sh. Rakesh Mehta, Ld. Addl. PP for the State
(through Video Conferencing).

Sh. Ravinder Kumar, Ld. Counsel for
applicant/accused (through Video Conferencing).

IO/SI Subhash Kumar has also filed reply.

This is 3rd application for grant of bail u/s. 439 Cr.P.C
as filed on behalf of above named applicant/accused during
Covid-19 Pandemic.

Arguments have been heard through video
conferencing using 'Cisco WebEx' App.

Ld. Counsel for applicant/accused argued that
applicant is in JC since 06.03.2018 and has been falsely
implicated in the present case. It has been submitted that
alleged incident occurred on 02.03.2018 at about 1.30 pm but
first information i.e DD No.68-B was recorded at about 2.02 pm.
Ld. Counsel for applicant further argued that material witnesses

have already been examined and there was number of shops near the spot as admitted by prosecution witnesses but none of the shop-keeper was asked to join the investigation. Ld. Counsel for applicant further argued that although in FIR complainant has also named one Pajama @ Dedh Futia but later on he changed his statement regarding presence of Pajama @ Dedh Futia. Ld. Counsel for applicant further contended that applicant has no previous enmity with the complainant party and that co-accused Ravi has already been granted bail. Ld. Counsel for applicant has also relied upon an authority reported as Sanjeev Kumar Vs. State, 1991 (45) DLT 320.

Per contra, bail application is opposed by Ld. Addl. PP for the State while arguing that applicant is named in the FIR and that complainant as well as victim both have deposed that applicant gave several blows of knife to the injured. Ld. Addl. PP further argued that if applicant had no previous enmity with the complainant party as argued by Ld. Counsel for applicant, in that eventuality there was no motive for complainant to falsely implicate the applicant. It is further submitted that co-accused Ravi was granted bail as he was not named in the FIR and therefore, applicant cannot claim bail on the ground of parity.

In brief, as per FIR on 02.03.2018 complainant Manohar Lal was coming towards his house after playing *Holi* and when at about 1.30 pm, he reached near B-2 Park, Nand

Nagri, he saw that two boys namely Rameshwar @ Chhutanki and Mukesh @ Pajama @ Dedh Futia, who were previously known to him were running behind his son Jai Shree Kishan and Rameshwar @ Chhutanki was carrying knife. His son Jai Shree Kishan fell down while running and when he again tried to run away he was caught hold by Mukesh @ Pajama @ Dedh Futia from behind and Rameshwar @ Chhutanki gave several blows of knife on his abdomen and chest in order to kill him. Complainant started shouting, on which crowd gathered there and thereupon Rameshwar @ Chhutanki and Mukesh @ Pajama @ Dedh Futia ran away from spot after waiving knife.

Hon'ble Supreme Court in **Chaman Lal vs. State of U.P (2004) 7 SCC 525** held that “ It is a well settled principle of law that while dealing with an application for grant of bail, it is the duty of the Court to take into consideration certain factors and they basically are (i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and (iii) Prima facie satisfaction of the court in support of the charge”.

As per MLC of injured Jai Shree Kishan, there are nine incised wounds on his body, which also corroborates his

version. Injured has also specifically deposed that he was stabbed by applicant. Minute appreciation of evidence is not required at this stage as it may cause prejudice to either of the parties. Co-accused Ravi was granted bail as he was not named in the FIR. Ld. Predecessor of this Court while dismissing second bail application of applicant observed that complainant, who was present in the court submitted that when applicant was released on interim bail he threatened them of dire consequences. Applicant indulged himself in present case when he was on bail in another murder case i.e FIR No. 317/15, u/s. 302/34 IPC, PS. Nand Nagri.

Keeping in view the totality of facts and circumstances of the case, I am not inclined to grant regular bail to the applicant/accused. Accordingly, bail application stands dismissed.

(Sanjeev Kumar Malhotra)
ASJ-04/Shahdara
KKD Courts/Delhi/02.09.2020