

SC ID No. 161/20

IA No. 01/2020

State Vs. Sachin Upadhaya @ Tinku

FIR No. 236/19

P.S. Madhu Vihar

U/s. 324/307/354/34 IPC

26.11.2020

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

Sh. Ravi Kaushal, Ld. Counsel for applicant/accused (through video conferencing).

IO/SI Nasir Abbas has filed reply.

This is 2nd 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 at first instance complainant refused to give statement and on the basis of allegation of stab injury a case FIR u/s. 324 IPC was registered. It is submitted that complainant gave statement after 15 days from the incident. Ld. Counsel for applicant further argued that no weapon of offence has been recovered at the instance of applicant. Ld. Counsel for applicant vehemently contended that applicant was formally arrested on 16.11.2019 but he was released on personal bond by the

IO and thereafter, again he was arrested on 05.02.2020 and during the said period applicant never tried to contact the applicant or any other witness. Ld.Counsel for applicant further argued that applicant is a student of B.Pharma and his examination are to be commenced from 01.12.2020.

Per contra, bail application is opposed by Ld. Addl. PP for the State while arguing that complainant could not give statement at first instance as he was not well at that time and after discharge from the hospital he gave the statement to the IO. It has been submitted that as per opinion on the MLC, the nature of injury is grievous.

In brief, as per case of prosecution on 27.10.2019, complainant Rajan alongwith his girl-friend went to distribute gifts on the occasion of Diwali at D Block, Vinod Nagar and when they were returning to his room, he asked his girl friend to go and that he would come after purchasing milk. On the way in gali no.3, West Vinod Nagar, Sachin @ Tinku & Salman were standing alongwith their friends and on the way his friend Akansha told him that Sachin, Salman and their friends were passing comments upon her, on which he told her to go to the house and that he will come after meeting with Sachin and Salmam. At about 10.30 pm, when he enquired from them why they were passing comments on his girl friend, they started arguing with him and Salman caught hold him while Sachin @ Tinku gave several blows of knife on his chest and waist and after seeing him injured they both ran away from the spot. Someone made call at

100 number. Thereafter, he was taken to LNJP hospital, from where he was referred to RML hospital.

On last date of hearing IO was directed to verify the examination schedule of applicant from concerned college. IO has verified that applicant is student of B.Pharma and his examination are to be commenced from 01.12.2020.

Admittedly, initially applicant was released on personal bond by the IO and thereafter after adding section 307 IPC, he surrendered after about 2 ½ months from the date of recording statement of injured. Charge-sheet has already been filed.

Keeping in view the totality of facts and circumstances of the case, applicant is admitted to bail on furnishing a personal bond in the sum of Rs.20,000/- with **two sureties** of like amount subject to the conditions that (1) applicant shall not contact with complainant or temper with prosecution evidence in any manner; (2) that applicant shall not indulge in any criminal activity; (3) and that applicant shall provide his mobile number to the IO/SHO of concerned PS and shall drop a pin on the Google map to keep his mobile location on at all times.

Application accordingly stands disposed off.

(Sanjeev Kumar Malhotra)
ASJ-04/Shahdara
KKD Courts/Delhi/26.11.2020