

ID NO. 464/2022
STATE Vs. JAHANGIR
FIR NO. 583 /2022
PS WELCOME
U/S. 336/34 IPC
& 25/27 ARMS ACT

03.01.2023

Present: Sh. Anil Kumar, Ld. Addl. PP for State.
Sh. Hari Shankar, Ld. Counsel for applicant/accused.

Ld. counsel for accused has submitted that copy of pen drive has not been supplied to him. IO has submitted that pen drive has been sent to FSL and the FSL report is yet not received. He has supplied the copy of CCTV footage to ld. counsel on his mobile phone through whatsapp. CCTV footage of the incident in the mobile of IO also seen by the court.

Arguments on bail application heard.

Put up for order at 2 pm.

(KIRAN BANSAL)
ASJ-04, Shahdara/KKD Courts,
Delhi/03.01.2023

At 2 pm

Present: Sh. Anil Kumar, Ld. Addl. PP for State.
None for applicant/accused.

This is second application for grant of bail under Section 439

Cr.P.C moved on behalf of of applicant/accused stating that applicant cannot be seen in the CCTV footage collected by police officials and that no incident happened at any point of time and no grievous injuries were inflicted upon any person and the applicant was falsely implicated under Section 307 IPC.

Ld. counsel stated that first bail application of applicant was dismissed on 15.11.2022 by the court of Ld. ASJ. He has further stated that applicant has been falsely implicated and is in judicial custody since 04.09.2022. Ld. counsel submits that co accused who is CCL has already been granted bail by J.J. Board. He further stated that nothing has been recovered from the possession of applicant and applicant is the sole bread earner of his family. Ld. counsel submits that applicant is neither previous convict nor habitual offender in any manner and is ready to abide all the terms and conditions if he may be granted bail.

Reply to the bail application has been filed by the IO wherein it is stated that at around 1.20 pm accused Jahangir and S (CCL) came at the mill of Kamruddin and started firing. Jahangir had shoot towards the Kamruddin's worker, namely, Mohd. Gufran, however, the bullet got inserted in the wall and both have stated that "agar paise nahi doge toh agae nahi chodenge aaj toh chod diya" and both fled away from the spot. During investigation Jahangir disclosed that he and CCL 'S' got the pistol from Faizan's brother, namely, Farman.

Arguments have been heard. Record perused.

The court is mindful of the fact that as a general rule it is the bail and not the jail, which is the right of the accused. However, the right of the accused must be balanced with the general interest of the society and the fairness of the investigation. The possibility of witness tempering and the

apprehension of threat to witnesses are the factors which cannot be ignored.

In the present case, co accused 'S' CCL disclosed that both the pistols were given by Farman who is yet not apprehended and NBWs proceedings are pending against him. Even the alleged weapon i.e. pistol which was used at the time of commission of offence was not recovered. The CCTV footage of the incident has been perused by the court. Although the accused Jahangir was wearing mask but still it is not difficult to make that it is accused Jahangir can be seeing firing. While seeing the CCTV footage it is clear that accused has no fear of law and was using fire arms openly in public during day time. The possibility of the applicant/accused committing similar offences and the possibility of applicant/accused fleeing the process of law cannot be ruled out. In such circumstances, I am not inclined to grant bail to the applicant/accused. Accordingly, bail application stands dismissed.

Copy of the order be given dasti.

(KIRAN BANSAL)
ASJ-04, Shahdara/KKD Courts,
Delhi/03.01.2023