

**IN THE COURT OF MS. VRINDA KUMARI,  
ASJ-02, SOUTH, SAKET COURTS, NEW DELHI**

**State Vs Rakesh @ Raka & Ors.**

**FIR No. 35/2019**

**(Applicant: Ashu Gupta)**

**PS Sangam Vihar**

**U/s 302/307/174A/34 IPC**

**22.05.2023**

**Application u/s 439 Cr.P.C. for grant of regular bail on behalf of applicant-accused Ashu Gupta.**

**Present:** Sh. Santosh Kumar, Ld. Addl. PP for the State.  
Ms. Asha, Ld. Counsel for applicant-accused.  
Applicant-accused produced from JC.

I have heard detailed arguments and have perused the record carefully.

Contention of Ld. Counsel for applicant-accused is that he was on interim bail under the HPC guidelines from 14.07.2021 onwards and he surrendered timely. No recovery was effected from him. It is submitted that he never misused the interim bail granted to him. Further, material public witnesses have already been examined. He has a previous involvement in a case u/s 354 IPC but has been falsely implicated in the present case.

Ld. Addl. PP for State has opposed the bail application on the ground of gravity of offence. It is submitted that admitting the applicant-accused to interim bail on account of extra ordinary circumstance of Covid-19 Pandemic is not a mitigating circumstance.

I have considered the rival contentions.

The case of the prosecution is that the present case involves rioting by two groups (all accused) who were carrying *lathi dandas*. The accused persons constituted unlawful assembly. There is a specific allegation that co-accused Manoj Kumar @ Hathodi and Shanu @ Kela of other group were firing shots at each other. Both the groups also assaulted each other with *lathi danda*. One of the shots fired hit the deceased Kanhiya Lal who was a passerby. The FSL result shows that one of the bullets was fired from the seized country made pistol point 0.315 bore while the other two spent cartridges were not fired from the seized *katta*. The above said seized *katta* was used by co-accused Manoj @ Hathodi and was recovered at the instance of CCL 'MA'. There is a specific allegation that the deceased died because of the shot fired by co-accused Manoj @ Hathodi.

The FSL result on record shows that the FSL analysis was conducted in respect of co-accused Manoj @ Hathodi and the fire arm used by him at the time of incident.

Material public witnesses have all been examined. I have considered their testimonies.

In view of the testimonies of public witnesses and the specific role of the applicant-accused in the present case and without commenting upon the merits of the case, **the applicant-accused Ashu Gupta is admitted to regular bail on furnishing of personal bond cum surety bond in sum of Rs. 1,00,000/- (Rupees One Lakh only) with one surety in the like amount**

**subject to the following conditions:**

- (i) the applicant-accused shall not influence, coerce, pressurize or contact PWs in any manner directly or indirectly;**
- (ii) he shall not tamper with the evidence;**
- (iii) he shall register his mobile phone number with the IO immediately upon his release and shall keep his location settings on in his mobile phone at all time;**
- (iv) he shall remain present in person or through his Counsel in the present case on every date of hearing fixed and/or as and when so directed by the Court;**
- (v) he shall not seek frequent exemptions or adjournments.**

**The present bail application of applicant-accused Ashu Gupta stands disposed of accordingly.**

Copy of the Order be given *dasti* to Ld. Counsel for the applicant-accused. Copy of the Order be dispatched to the Jail Superintendent concerned and IO.

**(Vrinda Kumari)**  
**ASJ-02 (South)**  
**New Delhi/22.05.2023**