

**In the court of Sh. Pulastya Pramachala, ASJ-03,
North-East District, Karkardoma Courts, Delhi**

IA 19/24 (Anas)

CNR No. DLNE01-003479-2020

SC No. 168/20

State v. Mohd. Tahir Hussain & Ors.

FIR No. 114/20

PS Khajuri Khas

U/s.109/114/147/148/149/427/454/435/436/395/153A/505/120B/
34 IPC

03.05.2024

ORDER

Vide this order, I shall decide bail application u/s. 439 Cr.P.C., as moved on behalf of applicant/accused Anas, thereby seeking interim bail for four (4) weeks.

1. Applicant is facing trial along with several other co-accused persons for offences punishable u/s.120-B IPC r/w. Sec. 147/148/149/427/395/435/436 IPC; u/s.147/148/427/395/435/436 IPC r/w. Sec. 149 IPC and 188 IPC; & 153-A IPC. Charges of aforesaid offences were framed against them vide order dated 07.02.2023 and trial is going on.
2. Briefly stated, the relevant facts of the present case are that the present FIR was registered on 27.02.2020, on the complaint of Sh. Karan, s/o. Sh. Roshan Kumar, Prop. of Aman E- Rickshaw Unit of Harsh Trading Company. As per the FIR, on 25.02.2020 at around 4:00 PM to 05:00 PM, around 40-50 associates of Tahir Hussain (from Aam Admi Party) looted his godown situated at E-17, Khajuri Khas, Main Karawal Nagar Road, Chand Bag Pulia. During the incident, valuable property was allegedly stolen and spare parts and important documents (including original

certificates of e-Rickshaws, certificate of spare parts from 2016 to the date of complaint) were burnt, due to which the complainant allegedly suffered a loss of around Rs. 25-30 lac. Applicant is alleged to be involved in aforesaid incident being part of that riotous mob.

3. Application mentions that applicant is seeking interim bail for a period of four (4) weeks i.e. from 10.05.2024 to 10.06.2024 to attend the marriage functions of his younger brother. Application further mentions that marriage is fixed for 19.05.2024; Madha function is fixed for 18.05.2024 and Walima function is fixed for 21.05.2024. Application further mentions that presence of applicant is required for these functions. Applicant is the only person, who has to bear the responsibilities in the above said marriage, as their parents have passed away and no other person is available to perform the important duties in the said marriage.
4. **Mohd. Hasan**, ld. counsel for applicant argued on the same lines as mentioned in the application. Ld. counsel prayed that applicant be granted interim bail for period of at least a week.
5. As per reply sent by W/Insp. Priyanka, the document i.e. invitation card filed along with the application, was verified from the family members of groom Altmash, two neighbours, father of bride and owner of banquet hall. Groom is younger brother of applicant and his marriage is going to be solemnized with Rukhsar, D/o. Iqbal on 19.05.2024 and Dawat-e-walima/reception is scheduled on 21.05.2024 at Rang Roop Banquet Guest House, Meerut, U.P. Three other uncles of applicant are also residing along with his family. As per reply, place of walima/reception was also verified from the owner namely Asjad Musa,

who confirmed that aforesaid banquet is booked for Dawat-e-Walima of Altmash and Rukhsar. As per reply, families of three uncles of applicant along with the family of applicant, are residing in the same premises together and they can manage the arrangements of the marriage. As per reply, functions of marriage are only on two dates i.e. 19.05.2024 (marriage) and 21.05.2024 (Dawat-e-Walima). There are no other function either scheduled or mentioned in the invitation card.

6. **Sh. Madhukar Pandey**, Id. Special PP strongly opposed this application on grounds taken in the reply. He submitted that neither there is indispensable requirement of presence of applicant in this marriage, nor it is advisable to release accused on interim bail on such grounds as keeping in view the severe punishment of life imprisonment, there is every likelihood that applicant may flee away.
7. I have given due consideration to the rival contentions and materials placed on the record.
8. I have gone through the verification report and the record. Apparently the nature and gravity of accusations and punishment provided for the alleged charges are too serious. Interim bail is an exceptional remedy, which can be availed only on the grounds of extreme exigency. Marriage of younger brother cannot be an event of exigency which must be attended by the applicant. The plea taken by the applicant cannot be treated as plea arising out of any exigency. If an accused has not been granted regular bail on the merits of a case, then it signifies the decision of the court to show that release of such an accused at such stage, is not found appropriate. Such decision of the court cannot be bypassed

on the basis of any such plea as taken by applicant in the application. Therefore, the ground of marriage of younger brother is not acceptable, to release the applicant on interim bail. Hence, I do not find sufficient ground for release of applicant on interim bail. Therefore, application is rejected.

Copy of order be given dasti.

(PULASTYA PRAMACHALA)
ASJ-03(NE)/KKD Courts/Delhi
03.05.2024