

SC No. 521/2019
IA No. 15/2024
State Vs. Faisal Shah @ Anas
FIR No. 369/2019
PS Welcome
U/s 302/120B/34 IPC
and 27 Arms Act

25.02.2025

This is 4th application u/s 439 Cr.PC (u/s 483 BNSS) moved on behalf of applicant/accused Faisal Shah @ Anas for grant of interim bail for a period of four weeks.

Present:- Sh. Sobit, Ld. Addl. PP for the State.
Sh. S N Qureshi, Ld. Counsel for applicant/
accused Faisal Shah @ Anas.
IO/Inspector Gianender Singh present.

ORDER

1. It is argued by Ld. counsel for applicant/accused that he has been falsely implicated in the present case and he is in JC since 19.08.2019. The complainant Ct. Mahipal has already been examined as PW4, however his cross-examination is yet to be conducted. The other two public witnesses namely Ashraf Ali and Mazhar Khan have not supported the case of prosecution. The other public witness namely Faisal Saifi, who is real brother of deceased, has been subsequently incorporated as an eye witness by the police after about 3 months of the incident. All allegations against the applicant/accused are absolutely false, fabricated and concocted and he was not involved in the present case. Applicant/accused is a chronic patient of tuberculosis and bleeding per rectum as well as recently he has developed cardiac problem due to suffocation and unhygienic condition in jail. The applicant/accused is required to undergo proper treatment from a

specialized hospital and under the care and guidance of his family members and is under treatment in jail hospital, but no significant improvement is observed. Applicant/accused is a permanent resident of Delhi and there is no chance of absconding and most of the public witnesses have turned hostile and did not support the case of prosecution. Co-accused Rashid @ Cablewala has already been granted regular bail by the Ld. Predecessor on 21.06.2021, but he had absconded and declared PO vide order dt. 06.06.2023 and co-accused Aman @ Shahbaj was granted regular bail on 05.02.2022. 1st bail application of applicant/accused was dismissed as withdrawn on 05.03.2022, 2nd bail application was dismissed on 25.07.2024 and 3rd bail application was dismissed as withdrawn on 09.12.2024.

2. Ld. Addl. PP for the State has opposed the bail application on the ground of gravity of offence and that complainant, who is an eye-witness, has not been completely examined and one more public witness remains to be examined and one co-accused Rashid @ Cablewala has absconded and declared PO and there are chances that applicant/accused may influence the witness, if released on bail and he is involved in three murder cases, two attempt to murder cases and some other cases for extortion and firing and he can be treated in the jail.

3. IO has filed a reply and opposed the bail application and filed the previous involvement of the accused in 7 other cases, out of which 4 are heinous. Applicant/accused is an active member of Hashim Baba Gang and he refused to join TIP proceedings, but witness correctly identified him during PC remand and if applicant/accused released on interim bail, he may

threaten the witnesses and repeat the offence and he has no permanent address in Delhi and he may get treatment in jail.

4. The charges framed against accused are u/s 302/120B IPC and 27 Arms Act. The accused is in JC since 19.08.2019 i.e. more than 5.5 years and two material witnesses Ashraf Ali and Mazhar Khan have already been examined and discharged and they have not supported the case of prosecution at all and witness Faisal Saifi is not an eye witness. PW Ct. Mahipal has been examined in chief and other witnesses are either police witnesses or doctors. It is also mentioned by Ld. Counsel that applicant/accused has been granted bail in other cases.

5. The accused Rashid @ Cablewala was earlier granted bail, but he absconded and was declared PO and co-accused Aman @ Shahbaj has also been granted bail. Last bail of the applicant/accused was dismissed on 12.12.2024. In the instant case, applicant/accused has prayed for interim bail on the ground of his treatment. Jail Superintendent has filed a medical report prepared by Senior Medical Officer, Central Jail No. 11, Mandoli, New Delhi dated 25.02.2025 wherein it is mentioned that applicant/accused is suffering from hemorrhoids (bleeding per rectum), pulmonary tuberculosis (TB), breathing difficulty, fever on/off, weight loss and severe lower backache with radiculopathy left side and he visited jail dispensary on 28.01.2025 and due to non improvement, he was sent to GTB Hospital where he was prescribed medicines, but his bleeding persisted and he was sent to GTB again on 12.02.2025, but still his bleeding persisted and he has lost 10 kg weight in a month and he is having swelling and discharge from perianal part and

his condition is not improving and he needs surgery and he is having complaints of cough, bleeding, chest pain, fever, breathing difficulty and loss of appetite and on 14.01.2025, he was referred to GTB Hospital and on 12.02.2025 also, he was referred to GTB Hospital due to these conditions and despite medicines, he is not improving. His sputum report positive for AFB (Tuberculosis). Reports of his blood sample are awaited and his medical conditions are still persisting and he also has lower back pain and on 19.11.2024, he was referred to GTB Hospital as he fell in the bathroom and sustained injury and his X-ray revealed that he has well defined sclerotic lesion in the metaphysis diaphysis junction of left proximal femur bone. Orthopedic surgeon prescribed the medications and also advised to avoid forward bending and heavy weight lifting and also avoid cross legged. He is receiving all the medications as per advise. Despite taking medications, the lower back pain is not improving and still persisted. He is also having numbness and weakness in his lower limbs.

6. The medical report of jail shows that the applicant/accused is suffering from various ailment, which cannot be treated in jail and his medical condition is not improving.

7. Considering the above facts and circumstances of the case including the medical report, **the interim bail of applicant/accused Faisal Shah @ Anas is allowed and he is admitted to interim bail till 12.03.2025 on his furnishing a personal bond in the sum of Rs. 1,00,000/- with one surety of like amount to the satisfaction of this court, subject to following**

conditions:-

1. That accused will not contact complainant/victim or his family members or any prosecution witness directly or indirectly in any manner.
2. That accused shall surrender before the Jail Superintendent at the expiry of bail period i.e. on 13.03.2025 under intimation to this court.
3. The accused shall provide his mobile number to the SHO concerned and make a video call to the SHO every alternate day till he surrenders.
4. The accused shall furnish medical papers of his treatment at Specialized Hospital (as claimed by the applicant) where he will be treated.
5. The accused shall not leave Delhi during the period of bail without the permission of the Court.

Nothing mentioned herein shall tantamount to any expression on the merits of the case.

The interim bail application of applicant/accused Faisal Shah @ Anas is accordingly disposed of.

Copy of this order be sent to Jail superintendent concerned, IO/SHO concerned and be given dasti to Ld. counsel for accused.

(Kumar Rajat)
ASJ-07/SHD/KKD Courts/Delhi
25.02.2025