

IA No.03/2021 in SC No.22/2021

State V/s Gulfam @ VIP

FIR No.88/2020

U/s 147/148/149/153-A/505/307/120-B/34 IPC r/w Section 27/30 Arms Act

PS: Dayalpur (Crime Branch)

12.05.2021

THROUGH WEBEX VIDEO CONFERENCING

Present: Shri Manoj Chaudhary, Ld. Special PP for the State alongwith IO, SI Rajeev Bamel.

Shri Salim Malik, Ld. Counsel for accused Gulfam @ VIP/applicant.

ORDER

This is an application seeking interim bail for a period of fifteen (15) days, filed on behalf of applicant on the ground that Eid festival is to be observed among the muslim community on 13/14.05.2021 and the wife and children of applicant have an earnest desire to celebrate the said festival with the applicant.

2. It is submitted by learned counsel that applicant has been in judicial custody in the matter since 16.03.2020. Besides the case in hand, applicant has been falsely implicated by the investigating agency in seven other cases of riots and he already stood admitted on regular bail in the said cases. The photocopies of the bail orders passed in the said cases have been annexed with the application under consideration. Details of the seven other cases in which the applicant has been implicated are as under:

- (i) FIR No.80/2020, PS Dayalpur;
- (ii) FIR No.91/2020, PS Dayalpur;
- (iii) FIR No.92/2020, PS Dayalpur;
- (iv) FIR No.117/2020, PS Dayalpur;
- (v) FIR No.120/2020, PS Dayalpur;
- (vi) FIR No.101/2020, PS Khajuri Khas and;
- (vii) FIR No.116/2020, PS Khajuri Khas.

3. It is further very vehemently argued that the lead/bullet piece

recovered from the body of injured Ajay Goswami in the matter has already been sent for FSL examination alongwith the licensed revolver which is alleged to have been recovered from the applicant (subject matter of case FIR No.101/2020, PS Khajuri Khas). It is submitted that this Court had already given directions to the IO/investigating agency for expediting the FSL result in the said case, however, on account of pandemic Covid-19 FSL authorities are finding it hard to expedite the result thereof.

As such, interim bail for a period of fifteen (15) days has been prayed on behalf of applicant, so that he can celebrate festival of Eid with his family members, as he has been in judicial custody for almost a year now.

4. Reply to the bail application has been filed by the investigating agency. The learned Special PP has opposed the interim bail application on the ground that the applicant is an accused in several case(s) of riots. It is argued that the instant case pertains to sustaining serious gunshot injuries by injured Ajay Goswami at the hands of riotous mob on 25.02.2020 and Section 307 IPC is lying invoked in the matter. It is further argued that considering the seriousness of the offence involved in the matter, this Court had already dismissed the regular bail application of applicant vide order dated 24.07.2020. As such, dismissal of application under consideration has also been prayed for.

However, at this stage, on instructions from the IO, it is admitted by learned Special PP that applicant already stood admitted on regular bail in remaining seven matters of riots (as detailed in the preceding paragraph No.2).

5. I have given my thoughtful consideration to the facts and circumstances of the case as well as arguments advanced at bar.

6. It is worthwhile to note here that besides the case in hand, applicant is also an accused in seven other cases of riots, however, it is a matter of record that he already stood admitted on bail in the said cases. To be specific, the details

thereof is mentioned as under:

(i) FIR No.80/2020, PS Dayalpur	Enlarged on bail by this Court vide order dated 05.10.2020.
(ii) FIR No.91/2020, PS Dayalpur	Enlarged on bail by this Court vide order dated 11.05.2021.
(iii) FIR No.92/2020, PS Dayalpur	Enlarged on bail by Hon'ble High Court of Delhi vide order dated 29.04.2021, passed in Bail Application No.1200/2021.
(iv) FIR No.117/2020, PS Dayalpur	Enlarged on bail by this Court vide order dated 19.10.2020.
(v) FIR No.120/2020, Dayalpur	Enlarged on bail by this Court vide order dated 09.12.2020.
(vi) FIR No.101/2020, PS Khajuri Khas and;	Enlarged on bail by this Court vide order dated 13.04.2021.
(vii) FIR No.116/2020, PS Khajuri Khas	Enlarged on bail by Hon'ble High Court of Delhi vide order dated 16.03.2021, passed in Bail Application No.3623/2020.

7. At this stage, it is highly relevant to note here that the case in hand (i.e case FIR No.88/2020, PS Dayalpur) and other two connected cases bearing FIRs No.91/2020 and 92/2020, both PS Dayalpur pertain to the incident(s) of same date, same time, of same area/locality, the material relied upon by the investigating agency in the said three cases is also same; even the eye witnesses cited in the said three connected matters are also same.

As regards the non-receipt of FSL report in the matter, it is noted that the filing thereof on record is neither in the hands of IO/investigating agency nor in the domain of Court. The report has to come from the FSL and this Court cannot loose sight of the fact that presently pandemic Covid-19 cases are on rise and that

may be the reason for delay in filing the said report.

Be that as it may, the applicant cannot be denied interim relief on the sole account of non-filing of FSL report in the matter.

8. Keeping in view the aforesaid facts, I am of the considered opinion that applicant deserves interim relief in the matter. He has been in judicial custody for more than a year now.

It is further worthwhile to note here that Eid is meant to be a time of joy and blessing for the entire muslim community. Eid festival is very important time in Islam and allows families, loved ones and communities to come together and celebrate/enjoy everyday blessings.

9. Accordingly, applicant Gulfam @ VIP, S/o Shri Shabbir is admitted to interim bail in the matter for a period of fifteen (15) days from the date of his release from the jail on his furnishing a Personal Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one surety in the like amount to the satisfaction of the Court and subject to the condition that the applicant shall not misuse the liberty in any manner; he will not seek extension of interim bail on any ground whatsoever; he will not leave the town/station (Delhi) without prior permission of the Court; he shall furnish his mobile number to SHO, PS Dayalpur upon his release from the jail and will ensure the same to be in working condition and further he shall also get installed "*Arogya Setu App*" in his mobile phone; he shall neither influence the witness(es) nor tamper with the evidence and will maintain peace and harmony in the locality.

Needless to say, the applicant be released from the jail only after getting his RT-PCR test done by the jail authorities.

After expiry of the interim bail period, the applicant will surrender himself before Superintendent Jail concerned after getting his RT-PCR test done from outside.

10. Application stands disposed off in above terms.

11. A copy of this order be sent to the Superintendent Jail concerned as also to learned counsel for the applicant through electronic mode.

(VINOD YADAV)
ASJ-03(NE)/KKD COURTS/12.05.2021