

Bail Application No.1560/2021

FIR No. 218/2021

U/s 302/308/365/325/323/341/506

188/269/34/120-B of IPC and

25/54/59 Arms Act

P.S Model Town

State Vs. Sushil Kumar

18.05.2021

This is an application U/S 438 Cr P C for grant of anticipatory bail is placed before me being the Vacation Judge of District (North), Rohini Courts, Delhi, in pursuance of order No.16456-16516/Judl/North/RC/2021 of Ld Principal District & Sessions Judge (North) Rohini, Delhi.

Due to spreading of Corona Virus (COVID-19), hearing of the present matter has been conducted through Video Conferencing in terms of directions issued by Hon'ble Registrar, Hon,ble High Court of Delhi vide Endst. No.257-288/RG/DHC/2021 dated 08.04.2021 and subsequent order being passed by Ld. Principal District & Sessions Judge (North), Rohini Courts, Delhi vide orderNo.620-684/F2(9)/Judl./COVID/Noth/RC/2021 dated 08.04.2021.

INDIAN LEGAL NEWS

Present: Sh Atul Kr Srivastav Ld. Special PP for the State through VC
IO/Inspector Dinesh Kumar through V.C.
Sh Sidharth Luthra Ld Senior Counsel
Sh R.S Jhakar, B.S Jhakar, Sh Vikram Singh Jhakar
Sanjay Abbot, Kumar Vaibhaw, Satwik Mishra
and Mohd Ashaab Ld Cl for the applicant/accused through V.C.

This is an application U/S 438 Cr P C for grant of anticipatory bail being moved by the applicant/accused. It is submitted that the applicant/accused is aged about 37 years having in his family his wife and two minor children aged

about 07 years and 02 years. It is submitted that applicant/accused is the only Indian who has won back-to-back Olympic medals. He is also awarded Padma Shri by the Govt of India in the year 2011. It is further submitted that the applicant/accused has contributed to the country in the field of sport. It is submitted that the applicant/accused is also Arjuna Award awardee as well as Rajiv Gandhi Khel Ratna . It is submitted that the allegations against the applicant/accused are false as the applicant/accused was implicated in the present case at the instance of a senior police officer as it was published in the newspaper Amar Ujala. It is submitted that the investigating agency has concocted a story to rope the applicant/accused and for that reason the present FIR has been delayed for about 06 hours. It is submitted that there is no motive being shown by the investigating agency for which the applicant/accused may caused the offence. It is further submitted that the first notice was not served upon the applicant/accused. It is further submitted that the passport of the applicant/accused has also been taken by the police official and the investigating agency has not given any reason in the reply to the bail application for seizing the passport. It is further submitted that wife of the applicant/accused was called in the Police Station which is not permissible. It is further submitted that no particular role has

been assigned to the applicant/accused in causing the injury to the injured or deceased. It is further submitted that the investigating agency has not disclosed the fact who was the person who has made call at 100 number regarding firing at Chatarsal Stadium, Delhi. It is submitted that these facts has been withheld by the investigating agency deliberately. It is further submitted that the investigating agency has not disclosed the antecedents of one of the injured namely Sonu who is having criminal history. It is submitted that recovery has already been effected and there is no need of custodial interrogation of applicant/accused. It is submitted that due to surge of cases of Covid-19 the applicant/accused may have apprehension of being affected with the Carona virus. In support of his arguments Ld Senior Counsel has relied upon Pawan Kumar Gupta Vs State (NCT of Delhi) 2007 (94) DRJ 364 Dataram Singh Vs State of Uttar Pradesh and another (2018) 2 Supreme Court and CrI Misc Anticipatory bail Cr P.C No.4002 of 2021 Prateek Jain Vs State of UP & Ors . Prayer has been made for grant of bail.

On the other hand Ld Special PP for the State has opposed the bail application thereby stating that the allegations against the applicant/accused are serious in nature. It is submitted that applicant/accused alongwith his

associates have taken the victim/injured forcibly on the gun point to Chhatarsal Stadium, Delhi where they were beaten mercilessly. It is submitted that the motive is there as the deceased, though, vacated the rented premises owned by the wife of the applicant/accused but he has not paid the rent for two months. It is submitted that CCTV footage was sent to FSL and the same has been reported that it has not been tampered. It is further submitted that applicant/accused was seen being beating the injured persons with stick. It is further submitted that the passport of the applicant/accused has not been seized but the same was taken by the investigating agency to record the particulars of the passport so as to inform the concerned authority so that the applicant/accused may not leave the country. It is submitted that the investigation is going on. The NBWs against the applicant/accused were issued as applicant/accused is not cooperating with the investigation. It is further submitted that the custodial interrogation of applicant/accused is required to unearth the whole chain of incident and conspiracy; to arrest the other co-accused persons on the instance of applicant/accused and to recover the weapon of offence. Prayer has been made for dismissal of bail application.

Having considered the submissions being made by

the Ld Senior Counsel for the applicant/accused, Ld Special PP for the State and perusal of the file and record. At the outset I would like to mention here the observation of Hon'ble Supreme Court given in case titled as Sushila Aggarwal Vs State (NCT) of Delhi 2020 SCC on-line SC 98 " that whether to grant an anticipatory bail or reject the same is a matter of discretion of the Court and it is for the Court to decide, on the basis of the facts and circumstances of the case, what course is to be adopted " No formula has been laid down by the Five Bench Judges of Hon'ble Supreme Court regarding denial and grant of anticipatory bail. So each case bears its own facts and circumstances. But the discretion must be used by the Court judiciously. In the present case the allegations against the applicant/accused are serious in nature. From the perusal of record of investigation so far, it reveals that prima facie the applicant/accused is the main conspirator and FIR is not an encyclopedia. The investigation is still going on and some of the accused persons have not been arrested so far. The NBWs has already been issued against the applicant/accused. The Court is not making any observations on the facts as submitted before Court because it is the stage of anticipatory bail and giving any observation may prejudice the parties vice versa. The statement of the eye witnesses are there. So at this stage, the Court does not inclined to grant anticipatory

//6//

bail to the applicant/ accused. The application is dismissed.

JAGDISH
KUMAR

Digitally signed
by JAGDISH
KUMAR
Date: 2021.05.18
17:00:38 +0530

(Jagdish Kumar)

Vacation Judge

ASJ: Special FTC (North)

Rohini Courts: Delhi/18.05.2021