

B.A.No.194/2021
FIR No. 99/2019
PS Timarpur
State v.Jishan
U/s 302/307/34 IPC

14.07.2021 at 4 pm
ORDER

This is an application u/s 439 Cr.P.C. for grant of regular bail on behalf of accused-applicant Jishan in case FIR No. 99/2019.

Ld. counsel for accused-applicant has contended that applicant is married and has responsibility of his family consisting of wife and minor children, three son and one daughter. The parents of the applicant is also dependent on him. That father of the applicant is heart patient, and earlier had undergone with the heart surgery. Now recently in April 2021, father had got heart difficulty and doctor has advised immediate heart surgery. That family of the applicant is in intricate condition, and is unable to survive without applicant. The fathers' heart surgery is not possible without applicants help. That the applicant/ accused has been falsely implicated and arrested by the police officials but at no point of time the applicant/ accused has committed any offence. That in the present case applicant was arrested by the police officials of the above P.S on the basis of false & frivolous allegations. The incident as mentioned in the FIR is totally false. That on 13.01.2020, the charge has been framed and at present the case is at the stage of Prosecution Evidence (PE) and the NDOH is on 14.09.2021. That the applicant/ accused is an

innocent person and a respectable person and the accused was never involved in the crime as mentioned by the complainant in the present FIR. That the statement of the complainant is of no significance and evidentiary value as the complainant himself was under the influence of liquor. That there is nothing that has to be recovered in the present matter and the investigation is already completed and no fruitful purpose shall be served by keeping the accused in the custody.

Ld. Addl.PP has submitted that accused-applicant has played an active role in the commission of offence. That knife used in the commission of offence is also got recovered by the co-accused. That accused-applicant does not have clean antecedents and is involved in other criminal case. That accused-applicant was arrested by the police in some other case and on disclosure statement he was also arrested in the present case. The complainant has correctly identified accused-applicant Mohd. Jishan and co-accused Shahrukh during TIP proceedings. The public witnesses are yet to be examined.

Heard

Case of the prosecution is that on 17.06.19, at 11:50PM a PCR call vide DD No. 59A was received that one person has been injured by knife and lying near Ganda Nala. The injured had already been removed to HR Hospital Delhi upon which the police reached at the hospital where injured Suraj was found under treatment vide MLC No. 2886/19, and the friend of the injured who is the complainant was also present on whose statement the present FIR is

registered, alleging that on 17.6.2019 after 9.00pm in the night when he along with his friend Suraj, Irshad and Azim were drinking beer at Ganda Nala, Timar Pur, two unknown boys came on motorcycle and asked them why they are drinking there and started to quarrel with them on this issue, they all tried to overpower the duo but they attacked with knife and ran away from the spot and stabbed Irshad and Suraj.

In the quarrel that ensued on such trivial an issue, the two accused persons are alleged to have caused injuries to Suraj and one Irshad with knife. During treatment injured Suraj expired and Section 302 IPC was added in the case. The statement of injured Irshad was also recorded. His TIP was also conducted at Tihar Jail and complainant correctly identified accused Md Jishan. The weapon of offence has been recovered at the inst, and from the statement of the injured Irshad it would appear that it is the co-accused who had used the knife in the course of the incident. It is also reported by the IO that so far as ground raised by accused-applicant of the illness of his father is concerned, the medical documents are of year 2019 i.e. before the date of registration of present case, and there are two young brothers of the accused-applicant who can take care of the father of the accused-applicant.

The evidentiary value of the testimony of the complainant is to be assessed at the relevant time, ipso facto only for the reason that the complainant admittedly had consumed alcohol it cannot be inferred that the complainant was not a competent witness to the

incident, or his testimony would be unreliable. Moreover, the other injured Irshad is also a material witness for the prosecution. Investigation is complete, chargesheet is filed, trial is yet to commence and public witnesses including the complainant/ eye witness and the injured Irshad are yet to be examined. The accused-applicant does not have clean antecedents, and hence taking into consideration the grave nature of the offence and the criminal antecedents of the accused-applicant, and , as the public witnesses are yet to be examined, at this stage it is not a fit case for grant of regular bail to accused Jishan in case FIR no.99/19 and accordingly the application at hand is dismissed.

Application stands disposed of.

Copy of order be forwarded to Ld.Counsel for accused-applicant through electronic mode.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
14.07.2021