

**B.A.No. 212/2021
FIR No. 288/2019
PS Sarai Rohilla
State v. Rahul @ Hathodra
U/s 397/397/411/34 IPC**

27.07.2021

Present: Sh. K.P. Singh, Ld Addl. PP for State through
videoconferencing.

Sh. Lokesh Khanna, Ld. Counsel for accused-
applicant through videoconferencing.

Hearing is conducted through video conferencing.

This is an application u/s 439 Cr.P.C. for grant of interim
bailon behalf of accused-applicant Rahul Hathora in case FIR No.
288/2019.

Arguments heard. For orders, put up at 4pm.



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
27.07.2021

At 4 pm
ORDER

This is an application u/s 439 Cr.P.C. for grant of interim
bailon behalf of accused-applicant Rahul Hathora in case FIR No.
288/2019.

Ld. counsel for the accused-applicant has contended

that the accused was released by this Hon'ble court on Interim Bail from 21.6.2021 to 17.7.2021 vide order passed by this Hon'ble court (for interim bail) which is still on record. That since 19.9.2019 till 21.6.2021 the present accused Rahul Hathora was inJC and on interim bail from 21.6.2021 to 17.7.2021. That there is every chance of acquittal as there are many material contradictions in the prosecution evidences as present accused was falsely implicated by the complainant p/s and the trial will take long time. That the present accused is only bread-earner in his family and now his family financial situation is very critical. That there is a zero possibility of accused that he will flee from process of law /jumps interim bail and he surrender himself timely before jail authorities as well as present before Hon'ble court. That the mother of the accused Rahul Hathora who earlier had fractured her hand and on that medical ground earlier interim bail had been granted to the accused-applicant, is also a heart patient and is suffering from RASOLI abdomen pain problem and doctors of DDU Hospital called her for further investigation for the operation on 18.7.2021 and relevant medical records are annexed with the application besides photographs of mother when she got heart attack and taken to DDU Hospital where she got ventilated and oxygenated in emergency ward of DDU Hospital and she is still living with her small daughter who is incapable of earning and taking care of her. That earlier I.O. has submitted the verification report regarding the

fact that mother of the accused is still living alone with her daughter.

Heard.

Ld. Addl. PP on the other hand submits that the entire incident is captured in a CCTV footage. That the entire robbery with stabbing is committed in pursuance to a well executed plan involving two scooter borne offenders and two accused on a motor cycle. That recovery of the stolen articles is effected at the instance of the co-accused from his house. That accused-applicant was duly identified by the complainant in the course of TIP proceedings as one of the offenders. That the accused applicant does not have clean antecedents and is involved in 20 other criminal cases for commission of similar offences. That the accused-applicant has already availed of interim bail for treatment of mother.

Heard.

Interim Bail vide order dated 14.6.2021 was granted to the accused-applicant for treatment of mother as the mother of the accused-applicant had fractured her hand till 16.7.2021 which came to be extended till today. The accused-applicant has already availed of interim bail for the purposes of treatment of mother. Presently there is no hospitalization advised no surgical procedure prescribed. No ground therefore is made out to grant interim bail to the accused-applicant now for the same purposes for which interim bail has been already availed. The application is therefore dismissed. Accused-applicant to surrender in accordance with

directions issued by the Full Bench of H'ble the High Court of Delhi
in W.P.(C) No.4921/21.

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



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
27.07.2021

B. A. No.
FIR No.91/2020
PS Gulabi Bagh
State v. Deepak @ Deepu
U/s 302/34 IPC

27.07.2021 at 4 pm

This is an application under Section 439 CrPC for grant of regular bail on behalf of accused-applicant Deepak @ Deepu in case FIR No. 91/2020.

Ld. counsel for the accused-applicant has contended that accused-applicant is innocent and has been falsely implicated in the present case. That there are too many contradictions in the statements of the complainant. That in brief the prosecution case which emerged out from FIR on 26.05.2020 at about 10.00PM victim and accused person has been residing in the neighborhood of each other and are neighbor and known to each other. Though the accused-applicant was previously known to the complainant however his name does not figure anywhere in the statement of the complainant nor the PCR call and the name of the accused-applicant is also not stated before the Doctor who conducted MLC at Hindu Rao Hospital Delhi. That it is strange that the PCR call was made by his brother however he did not accompany the victim to the hospital. Essentially he did not mention the name of accused person and simply stated that JHAGRA HO RAHA HAI. And further he leveled the allegation on

police official that no action has been taken by police against accused person, though the name of accused person known by complainant, which clearly shows that false case has been lodged against accused person. That the alleged incident took place in a densely populated area at about 10PM however only relatives of victim have been made witnesses by the police. Absence of any independent witness in such thickly populated area and shows that the accused is falsely implicated in present FIR. That the victim was conscious and oriented at the time of his medical examination, however he also did not mention about the name of accused to the Doctor concerned. That the clothes of the complainant were not seized as piece of evidence by IO of the case though he alleged that he brought the victim to the hospital in injured condition. That even according to the prosecution the only role of the applicant is to instigation to his sons to commit an offence which allegation in itself is highly unnatural as a father will not exhort his son to commit an offence and spoil his entire life and career, and goes to show that he has been falsely entangled by the prosecution so that all the male members of the family may be implicated by the police and the complainant. That no recovery was made out from the present applicant in the investigation. That no independent witness/ public witness against the applicant filed by I.O. in the witness list of the charge sheet. That there is no scientific evidence like CCTV footage made out against the

applicant. That there is only Disclosure of the co-accused against the applicant and no independent statement taken from the applicant. That the charge sheet has been filed and the investigation has been completed therefore his custody is no more required. That the applicant is the sole bread earner to sustain his family and has deep roots in society.

Ld. Addl. PP for State submits that the allegations against the accused-applicant are serious in nature as the case pertains to commission of offence under Section 302 IPC. That a quarrel took place between deceased and accused person, whereupon accused persons went to their house and accused Gaurav upon the instigation of accused-applicant, stabbed the deceased. That the complainant is yet to be examined.

Heard.

Present FIR has come to be registered on the statement of the brother of the deceased alleging that in the night of 26.5.2020 at around 10 pm while he alongwith his younger brother Abhishek were strolling after dinner in the gali then Gaurav and Ankush, the two sons of Deepak@Deepu were passing by giving abuses under the influence of liquor and when his brother objected then they started hurling filthy abuses at him and started pushing and beating him, he intercepted them at which they had left threatening to teach a lesson and went away in to the gali but after 5-6 minutes, when they were near their house, then Gaurav

Ankush Ritik Manish and Deepak@ Deepu came, Gaurav had a knife in his hands. Gaurav pushed him, Ankush and Ritik held Abhishek by the arms and Manish caught him from behind, Deepak@Deepu exhorted Gaurav to stab him at which Gaurav stabbed Abhishek in his stomach due to which Abhishek fell down and they all ran away. Injured Abhishek was taken to Hindu Rao Hospital and he was admitted at HRH vide MLC NO 1933/2020, with 'A/H/O physical assault at gali no 8 home address around 10/15 PM dt 26.5.2020, stabbed approx 03 cm X 02cm X 02cm at lower left abdomen' recorded thereunder. Injured Abhishek died on 27.5.2020, in the course of treatment. During course of investigation Ankush, Manish and Gaurav were arrested, the weapon of the offence Knife has been recovered at the instance Gaurav and sent to FSL for scientific opinion. It is alleged that Accused Deepak@Deepu was deliberately evading his arrest and his NBW was got issued by the Court, and he surrendered on 29.8.2020. Ld. Counsel vehemently contended that despite the fact that the accused-applicant was previously known to the complainant the name of the accused -applicant does not figure either in the PCR Call made or in the MLC. A perusal thereof would reveal that none of the perpetrators have been named thereunder. It would have been a different circumstance if the names of all the accused but that of the applicant would have figured in the PCR Call recorded or the history narrated before the Doctor at the time

of medical examination of the injured, some leverage may have been derived in favour of the accused-applicant on account of such omission. It is not any suspicious circumstance indicating the false implication of the accused-applicant where there are no accused named by the PCR Caller or before the Doctor concerned, and in itself the omission to name any of the accused by the PCR caller and before the Doctor at the time of medical examination is not an exculpatory circumstance particularly when the names of the accused are clearly etched in the statement of the complainant/eye witness, with specific roles ascribed. The accused-applicant is alleged to have exhorted the main accused Guarav who inflicted the fatal stab injury, it is also pertinent that the accused-applicant is alleged to have come along with the other four accused while one of them was carrying a knife in his hands towards the complainant and the deceased. The presence of the accused-applicant with the co-accused has been clearly marked in the statement of the complainant that is recorded in the same night while he was present at the hospital. The complainant and the public witnesses who are yet to be examined belong to the same neighbourhood, and under such circumstances and in view of such facts as noted above, coupled with the gravity of the offence and as the complainant is yet to be examined, at this stage it is not a fit case for grant of bail to accused Deepak@ Deepu in case FIR No.91/2020. This application under Section 439 CrPC for grant of

regular bail on behalf of accused-applicant Deepak @ Deepu in case FIR No. 91/2020 is dismissed.

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



(NeeloferAbidaPerveen)
SpecialJudge-02, NDPS/
ASJ, (Central), THC/Delhi
27.07.2021