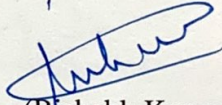


State Vs. Naresh
FIR No. 144/20
PS Civil Lines

06.05.2020

Present:- Ld. APP for the State in person.
Sh. Akshay Kumar, Ld. counsel for applicant/accused via VCC.
IO/ASI Suresh Kumar in person.
It is 04:38 pm.
The present matter is heard through VCC over Cisco Webex Meeting Application.
Arguments heard.
Put up for orders today itself at 05:30 pm.


(Rishabh Kapoor)
Duty MM/Central/THC
Delhi/06.05.2020


At about 05:30 pm

Present:- Ld. APP for the State in person.

This order shall dispose of application for grant of interim bail to the accused/applicant, Naresh Kumar. It has been averred that the accused is undergoing custody since 12.03.2020 and is a sole bread earner of his family. It is averred that due to the on going covid-19 pandemic, the accused be released on interim bail.

In reply filed by the IO, it is stated that the allegations are serious in nature. It is further averred that the accused was arrested on 08.03.2020 for the offences of robbery punishable u/s 392 IPC. It is further stated that the accused resides in a rented accommodation and is not having any permanent residence at Delhi, therefore, if released on bail, he may flee away from the process of law.

Since, as per the record, the accused has been involved in offences u/s 392/411/34 IPC. Offence u/s 392 of IPC entails punishment extending up to

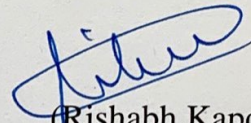

6/05/2020

imprisonment of ten years (vide para-I). The charge-sheet in the present case is yet to be filed. The case of the accused does not appear to be falling within the criteria laid down by the Hon'ble HPC for release of UTPs on interim bail, vide minutes dated 28.03.2020, 07.04.2020 and 19.04.2020. There also does not exist any exceptional circumstance warranting grant of interim bail in favour of accused. Accordingly, the prayer of accused/applicant appears to be devoid of any merits and as such same is rejected.

The application stands dismissed.

Scanned copy of this order be sent to Sh. Suresh Pahuja, Coordinator VC, for transmitting the same to counsel for accused/applicant and for also uploading on the website.

Application stands disposed of.



(Rishabh Kapoor)
Duty MM/Central/THC
Delhi/06.05.2020

06.05.2020

Present:- Ld. APP for the State in person.

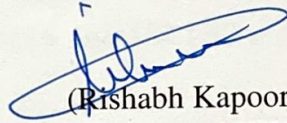
Sh. Shadman Siddqui, Ld. counsel for applicant via VCC.

It is 04:54 pm.

The matter was fixed for orders.

The undersigned is still not finished with the regular urgent work listed in today's cause list, hence, order could not be dictated.

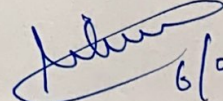
Accordingly, put up for orders today itself at 06:00 pm.


(Rishabh Kapoor)
Duty MM/Central/THC
Delhi/06.05.2020

At around 06:00 pm

Present:- Ld. APP for the State in person.

This order shall disposed of the application u/s 156(3) Cr.P.C., moved on behalf of applicant. It has been averred on behalf of applicant that on 16.04.2020 at about 11:30 pm at the locality of Rodgran, Lal Kuan, Delhi two unknown ladies had attempted to disrupt communal harmony by imputing some remarks which were communally sensitive. It is alleged that the locality wherein applicant resides is densely populated area majorly inhabited by Muslim Community. It is alleged that on the date of occurrence, such unknown ladies were roaming in the locality freely and they were carrying the rods. It is alleged that such ladies passed the communal remarks i.e. "katoan (*colloquial term for circumcised*), *bahut marrongi ghar me ghuske*". Allegedly, such ladies caused public annoyance by smashing the doors of the residences and shops of the vicinity. It is also alleged that a such ladies were roaming in the locality, in disregard of the nationwide lock down. It is alleged that such incident was


6/05/2020

captured and vide recorded. Same is stated to have been uploaded on Youtube and having captured views of several persons. It is further alleged that the area of occurrence is a sensitive area which has already witnessed a communal dispute regarding some parking issue. It is averred that the matter was reported to SHO PS Hauz Qazi on same day i.e. 16.04.2020, but no FIR was registered. Further, the complainant/applicant has also informed the SHO on the whatsapp and had also shared a pdf file regarding occurrence, but in vain. It is also averred that the applicant/complainant has also reported the matter to concerned DCP through email on 20.04.2020, but no action has been taken till date. With these averments, it is submitted on behalf of the applicant/complainant that keeping in view the sensitivity of the matter and likelihood of a public peace being hampered, the directions be given for registration of FIR u/s 153A, 270, 295A and 188 IPC and investigation thereof.

In the ATR filed under the signatures of inquiry officer ASI Anuj Kumar, it has been stated that during the inquiry, the alleged ladies involved incident were traced to be one Mamta and one Suraiya, who were feeding the stray dogs on the streets. It is stated that Mamta was carrying a stick in hand and people of Rodgran had a hot exchange of words with both such ladies. It is stated that no religious comments were passed by such ladies. It is stated that on 15.04.2020 one local press reporter of the vicinity uploaded the aforesaid video recording on Youtube, without verifying the facts from the alleged ladies. It is further stated that during inquiry no cognizable offence was found committed.

The thorough perusal of the case record is revealing that the applicant/complainant has leveled the specific allegations to the extent that two unknown ladies were roaming in the vicinity of occurrence on the alleged date and time. The nature of remarks passed by such ladies have also been specifically narrated. Besides, the specific allegations are also to the extent that the alleged ladies were having the sticks in their hands. Such allegations are duly supported with the affidavit of the applicant/complainant. Besides, it is also to be noted that as per allegations, it emerges that the incident had occurred on 16.04.2020 and on such date, the nationwide lockdown in the country was continuing vide the

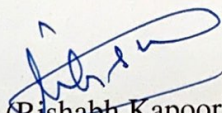
Anuj Kumar
6/05/2020

order/notification no. DDMA/COVID/2020/47 dt. 14.04.2020, by Govt. of NCT of Delhi. Therefore, no person except those who are permitted vide the Govt. Notification or those possessing movement passes, were allowed to roam or move in the vicinity, for any purpose whatsoever. As per the ATR, it was disclosed that the alleged ladies namely, Mamta and Suraiya were roaming in the vicinity for feeding the stray animals as they were working with NGO/Mahila Sameeti. Be it as it may, such alleged ladies even though are stated to be associated with NGO/Mahila Sameeti, were not allowed to move/roam in the vicinity without any movement pass, in disregard to the nationwide lockdown imposed due to Covid crisis. Therefore, it emerges that they have prima facie acted in contravention of section 188 IPC, which is a cognizable offence. Further, on perusal of the alleged statements of such ladies, namely, Mamta and Suraiya, they have been stated to be the residents Farshkhana, Lal Kuan and Gali Jamun Wali, Ballimaran, Delhi, respectively. Both such places are alleged to be situated at distances of 450 meters and 750 meters, respectively from the vicinity of occurrence. There is no justification qua presence of such ladies in the vicinity of occurrence on the alleged date and time. Further, it also emerges that the vicinity of occurrence has already witnessed a communal tension on a previous occasion owing to a parking dispute, and the video recording of the present incident also stands uploaded on Youtube, which may lead to escalation of communal disharmony in the vicinity. In view of the discussion made above, it prima facie emerges that due to the alleged incident, offences u/s 188/153A and 295A IPC have occurred and such offences are cognizable in nature. Therefore, the investigation of the case deserves to be conducted by the police. At this juncture, it is also pertinent to mention that once the a commission of cognizable offence is disclosed to the police, the police is duty bound to register the case FIR and carry the investigation into same (reliance placed on Lalita Kumari Vs. Govt. of U.P. & Ors. (2014) 2 SCC). In the present case, prima facie commission of cognizable offences has been shown. The area of occurrence is a sensitive area which has already witnessed a communal tension on previous occasion, therefore, if the incidents like the one in question are not taken to law, it will lead to communal disharmony and disturbance in

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6/05/2020

public peace and tranquility, for which the nation is not prepared in the present time of on going Covid crisis. Therefore, in this totality of circumstances, the present application is allowed and SHO PS Hauz Qazi is directed to register the case FIR for the offences u/s 188/153A/295A & conduct the investigation of the case accordingly.

Scanned copy of this order be sent to Sh. Suresh Pahuja, Co-ordinator VC, for transmitting the same to counsel for accused/applicant and for also uploading on the website.


(Rishabh Kapoor)
Duty MM/Central/THC
Delhi/06.05.2020