

FIR No. 243/2017

PS: Burari

State Vs. Jaswant Singh @ Raja

U/s 302/380/411/201/120B/34 IPC & 25 Arms Act

07.08.2020

ORDER

This is an application under Section 439 CrPC for grant of interim bail of 45 days on behalf of accused-applicant Jaswant Singh @ Raja in case FIR No. 243/2017 invoking the guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.4.2020 & 18.05.2020.

Ld. Counsel for the accused-applicant contended that accused is in JC since 25.05.2017 and chargesheet has already been filed. That co-accused namely Feroz has already been granted bail. That the interim bail of 45 days is sought on the ground of illness of the accused-applicant as he is suffering from asthma problem and is regularly using pump for the purpose of breathing. That accused-applicant has clean antecedents. Ld. Counsel has relied upon decision in Kuldeep v. State, B. A. No. 1464/2020 decided by Hon'ble High Court of Delhi on 17.07.2020. Ld. counsel for the accused submits that case of the accused-applicant fulfills the criteria laid down under guidelines issued by High Powered Committee of Hon'ble High Court dated 18.04.2020 and 18.05.2020.

Ld. Addl. PP, on the other hand, submits that accused is involved in murder of 5 members of the family and there are two FIR's registered in respect of the murder of 6 persons, arising out of murder of

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Munawar and his entire family consisting of his wife, two minor daughters and two sons. Two dead bodies were recovered from Delhi and three dead bodies were recovered from Meerut and murder of Munawar Hasan is committed in Durala, UP. That besides this case, accused-applicant is also an accused in case FIR No. 245/2017. That firstly wife and two daughters of Munawar Hasan were murdered in cold blood in the intervening night of 20.04.2017 at Durali, UP and their dead bodies buried, and thereafter two sons of Munawar Hasan namely Shakib and Akib were murdered on 21.04.2017 in Delhi and their dead bodies were buried in the same premises where they were murdered. Thereafter Munawar Hasan was murdered on 20.05.2017. That all the members of the family six in number were killed in pursuance to a criminal conspiracy in order to grab the properties of Munawar Hasan. The weapon of offence I.e. one revolver, two countrymade pistol with live cartridges used in the murder were recovered in pursuance to the disclosure statement made by the accused as well as the car used in commission of the offence. That the case of the accused -applicant is not covered under the guidelines as accused-applicant is involved in more than one cases and in multiple murders ie five murders, and that offence under section 302 IPC is not included under the guidelines issued on 18.4.2020, and the conduct of the accused in custody has also not been satisfactory

Heard.

The accused-applicant invokes the guidelines issued on 18.4.2020 by the the High Powered Committee of Hon'ble High Court of

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Delhi for release of UTP's on interim bail of 45 days in order to decongest the prisons in Delhi on the ground that he is a patient of asthma. Report was also called in respect of the medical health condition of the accused-applicant. As per report, on 06.07.2018, accused came to jail dispensary with complaint of itching, rashes in groin area for which he was thoroughly examined and provided treatment accordingly and also advised to review with jail visiting skin specialist. That on 09.07.2018 and 24.07.2018 and 31.07.2018 accused was examined by Jail visiting Skin specialist for T-Cruris and was provided treatment accordingly. On 07.08.2018, accused came to jail dispensary with complaint of cough for which he was examined and given treatment. On 21.08.2018 accused visited Jail dispensary with complaint of chest pain and pain in both legs for which he was examined and given treatment. On 03.05.2020, accused came to jail dispensary with complaint of cough and cold for which he was examined and given treatment. On 19.06.2020 accused was examined by jail visiting SR Medicine for complaint of breathing difficulty on exertion for which he was examined and given treatment. On 22.06.2020 accused was examined jail visiting eye specialist for complaint of redness in both eyes associated with watering and diagnosed with conjunctivitis for which he was examined and given treatment. That on 06.07.2020, accused visited to jail dispensary for follow up for Asthma for which he was examined and given treatment and advised for use inhaler. That in view of the court order, accused was examined by SR Medicine on 21.07.2020 for follow up of bronchial asthma with dyspnea on exertion (breathing

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difficulty) for which he was examined and advised for use of inhaler. That still accused-applicant is complaining of breathing difficulty.

High Powered Committee of Hon'ble High Court of Delhi while determining fresh category of prisoners who can be released on interim bail have taken into consideration as under:-

***"ITEM NO.4:- DETERMINING FRESH CATEGORY OF PRISONERS WHO CAN BE RELEASED ON INTERIM BAIL:-***

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*The Committee taking into account the observations made by Hon'ble Supreme Court vide its subsequent orders dated 13.04.2020, as well as the advisory issued by the ICMR to the effect that the persons suffering from acute illness have lesser immunity and thus, are more prone of getting infected by COVID-19 (Novel Corona Virus), is of the opinion that the criteria needs to be further relaxed with respect to those prisoners/ UTPs who are suffering from HIV, Cancer, Chronic Kidney Dysfunction(UPS requiring Dialysis), Hepatitis B or C Asthma, and TB. On directions of Hon'ble Chairpersons, DG (Prisons) was requested to furnish the information, for the impact analysis qua the proposed relaxed criteria of UTPS suffering from above illness(es). The same is submitted accordingly.*

*The Members of the Committee discussed the information so provided qua UTP suffering from above illness(es) and resolved that following categories of prisoners may now be considered for grant of interim bail for 45 days in view of the circumstances in which we are in, preferably on Personal Bond':*

*(i) Under trial prisoners (UTPs), who are suffering from above mentioned illness(es) and are in custody for three months more, facing trial in a case which prescribes a maximum sentence of 7 years or less;*

*(ii) Under trial prisoners (UTPs), who are suffering from*

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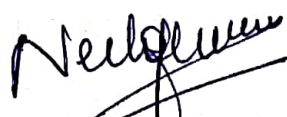
*above mentioned illness(es) and are in custody for a period of six months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less;*

*(iii) UTPs who are suffering from above mentioned illness(es) and are in custody for a period of six months or more and facing trial in a case which prescribes punishment of 10 years upto life imprisonment and are not involved in multiple cases.*

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Accused- applicant as would appear from the report is suffering from Asthama and has been advised inhaler however is not amenable to be considered on this ground as per the guidelines for the accused-applicant is involved in multiple murder cases where death sentence is amongst the prescribed punishment and the guidelines apply only to the UTP's involved in offences with punishment upto life. Offences punishable with death sentence are not included under the guidelines dated 18.4.2020. Accused- applicant has also sought the benefit of guidelines dated 18.5.2020, which apply to UTP;s involved in cases under section 302 IPC.

The accused-applicant has undergone custody of more than two years however his conduct in custody is reported to be not satisfactory and as per report received from Jail Superintendent, the conduct of the accused-applicant during custody is unsatisfactory and he was found in possession of 5 beedi's in the lockup. Moreover, the accused -applicant is involved in murder of five out of six members of a family and is an accused in two case FIR'S IE FIR no.243/2017 & FIR No.245/2017.



FIR No. 243/2017 dated 20.05.2017 under Section 302 IPC came to be registered on the statement of co-accused Sahib Khan @ Bunty along the lines that he is a property dealer and the deceased Munawar Hasan is also a property dealer and he was in visiting terms with Munawar Hasan and that on 19.05.2017, he alongwith one Babu and Yogesh in connection with some professional dealings went to the house of Munawar Hasan and at around 12 am in the night, Munawar Hasan had told him that on 20.05.2017, he had to go to the Court at 10 am and had asked him to meet with him in early morning or after 1 pm when he returns from the Court and in the meanwhile there was some altercation with the occupant of the ground floor namely Phool Singh. Thereafter, he left the house of Munawar Hasan alongwith Babu and Yogesh and that on 20.05.2017 when he called up Munawar Hasan on his mobile phone at 8.30 am he did not answer and on the same date he alongwith Deepak co-accused went to the house of Munawar Hasan on a motorcycle at around 1 pm and found that main door was lying open. He called out for Munawar Hasan but got no response and he alongwith Deepak accused entered the house of Munawar Hasan and found Munawar Hasan lying with his face down on his stomach in the bathroom in a pool of blood with injury marks along the waist at which he made call at 100 number.

FIR was initially registered against unknown persons. In the course of investigation, it came to light that the deceased Munawar Hasan was accused in case FIR No. 187/2015 under Section 376D IPC PS Burari and on 17.05.2017 he had been released on interim bail as his family had

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gone missing and their respective mobile phones were also switched off. He filed missing persons report as his family consisting of his wife two daughters and two sons were untraceable and missing. The tenant on the ground floor was joined in the investigation who reported to have seen three persons coming down the backside stairs who secretively left the premises at around 7.30 – 8 am in the morning but he could not identify them and could catch glimpse of their backside only. As the FIR No. 243/2017 was registered in respect of murder of Munawar Hasan, on the statement of Sahib Khan, co-accused Sahib Khan @ Bunty was also joined in the investigation alongwith Deepak another accused, but both of them made contradictory statements thereby arousing suspicion. The accused applicant came under the radar as an acquaintance of Sahib Khan to have visited Sahib Khan alongwith other co-accused during the relevant period and was also joined in investigation but they all made contradictory statements and when confronted, Sahib Khan @ Bunty confessed to have conspired to commit murder of Munawar Hasan and his entire family of six members alongwith accused-applicant Jaswant Singh @ Raja and other co-accused. On the disclosure of the accused, the dead bodies of the wife, two sons and two daughters were recovered, as also the murder weapon. After investigation, chargesheet is filed against Sahib Khan @ Bunty, Deepak, Zulfikar, Feroz, Jaswant Singh @ Raja, accused-applicant, and Sameer @ Wajid for commission of offences under Section 302/120B, 201/380/411/34 IPC read with 25/27/54/59 of Arms Act in case FIR No. 243/2017 in respect of murder of Munawar Hasan.

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FIR No. 245/2017 is registered on 21.05.2017 under Section 363/365 IPC in respect of the kidnapping / abduction of the wife, two daughters and two sons of Munawar Hasan and chargesheet is presented against Deepak, Zulfikar, Sahib Khan@ Bunty, Jaswant Singh @ Raja and Sameer @ Wajid for commission of offence under Section 363/365/302/392/411/201/120B/34 IPC in respect of abduction and murder of the wife, two daughters and two sons of Munawar Hasan. After presentation of the chargesheet, both the case FIRs have been consolidated for the purposes of trial and charges have been framed by one common order in both the case FIRs on 12.10.2018 under 15 counts against all the accused.

Accused-applicant Jaswant Singh alongwith other co-accused in pursuance of a criminal conspiracy to commit the murder of Munawar Hasan and of his entire family consisting of his wife, two daughters and two sons and is charged for the commission of the murder of Ishrat Arshi, Aarzoo, Akib and Sakib, ie the wife, two daughters both are sons of Munawar Hasan. Out of the six members of the family accused-applicant is involved in the murder 5 victims. He is an accused in case FIR No. 243/2017 that pertains to the murder of Munawar Hasan and also in FIR No. 245/2017 that pertains to the abduction and murder of wife, two daughters and two sons of Munawar Hasan.

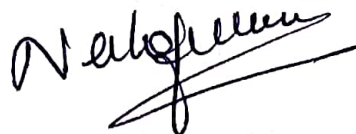
It is only as a matter of expedience that FIR No. 243/2017 and 245/2017 have been consolidated for the purposes of trial as it is in pursuance of a criminal conspiracy hatched between all the accused that



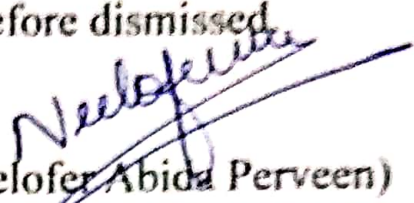


entire family of Munawar Hasan has been wiped out. However, the fact of the matter remains that accused-applicant is an accused in case FIR No. 243/2017 as well as in case FIR No. 245/2017 and is involved in five murders. It therefore cannot be said that accused-applicant is not involved in any other criminal case except case FIR No. 243/2017 as he is an accused in case FIR No. 245/2017 also, and is alleged to have murdered five out of six members of one family in pursuance to a criminal conspiracy.

Accused-applicant has claimed parity with co-accused Feroz, as co-accused Feroz has been granted interim bail of 45 days under the guidelines dated 18.5.2020. However the case of the accused -applicant is not on similar footing to that of Feroz who is an accused only in case FIR No. 245/17, and not in FIR No.243/2017, and is alleged to be involved in the murder of Munawar Hassan only moreover his conduct report was also favourable. As the accused-applicant is not only involved in case FIR No. 243/2017, pertaining to the murder of Munawar Hasan but is also named as an accused in case FIR No. 245/2017, charged for commission of murder of two sons, wife and two daughters of Munawar Hasan, and as his conduct during custody also has not been satisfactory, it is therefore not a fit case for grant of interim bail in accordance with guidelines dated 18.05.2020 issued by High Powered Committee of Hon'ble High Court as the accused-applicant is involved in two case FIRs for the murder of five victims and as his conduct during custody is unsatisfactory and he is involved in another case FIR besides the present case. The application



under Section 439 CrPC for grant of interim bail on behalf of accused Jaswant Singh @ Raja in case FIR No. 243/2017 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.04.2020 and 18.05.2020 is therefore dismissed

  
(Neelofer Abida Perveen)  
ASJ (Central)THC/Delhi  
07.08.2020