

CNR No.DLCT01-003801-2015

SC No.162/2021

FIR No.134/2015

PS Lahori Gate

U/s 394/395/397/412/120-B IPC & 25 Arms Act

State Vs. Tahir Hussain & Ors.

13/07/2021

File taken up today on the application u/s. 439 Cr.P.C. of accused Tahir Hussain for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
None has joined the proceedings on behalf of the accused Tahir Hussain through V.C.

Ahlmad is absent. One of the regular stenographers is on leave today.

By way of present order, this Court shall disposed of bail application u/s. 439 Cr.P.C. of the accused Tahir Hussain for grant of regular bail.

Arguments have already been heard on the aforesaid bail application of the accused Tahir Hussain. Perused the material available on record.

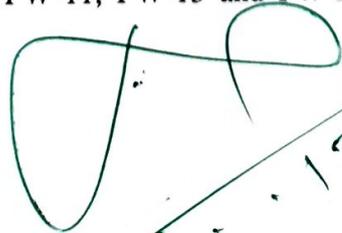
During the course of arguments on the aforesaid bail application, it was submitted by counsel for the accused Tahir Hussain that first bail application of the accused was dismissed vide order dated 23/04/2018 passed by Ld. Predecessor of the Court and the present bail application is second regular bail application of the accused and no other regular bail application of the accused is pending or decided by Hon'ble Superior Courts. It was further submitted that after dismissal of the first bail application, there is change in the facts and circumstances of the present case. It was further submitted that the accused has been falsely implicated in the present case and there is no incriminating evidence against the accused and accused is no more required for the purpose of further investigation as charge-sheet has already been filed in the present case. It was further submitted that in the present case, complainant/eye witnesses have already been examined. It was further submitted that in the present case, all material witnesses have already been

examined and only the official witnesses remain to be examined. It was further submitted that the complainant/eye witnesses were examined as PW-11, PW-13 and PW-21 and they have not corroborated the case of the prosecution and the aforesaid witnesses have failed to identify the accused persons during the course of their testimonies. It was further submitted that co-accused Mohd. Nazim and Arif were granted regular bail vide orders dated 05/10/2020 and 08/03/2021 respectively passed by the Hon'ble High Court of Delhi. It was further submitted that allegations against the accused Tahir Hussain and Arif are almost similar in nature and regular bail be granted to the accused Tahir Hussain on the ground of parity. It was further submitted that TIP proceedings of the accused was completely illegal in the eyes of law. It was further submitted that whenever interim bail was granted to the accused, he never misused the same. It was further submitted that accused is in J/C since 07/06/2015. It was further submitted that the accused has no previous involvement in any other case. It was further submitted that bail be granted to accused and accused shall be abide by all terms and conditions imposed by this court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that in the present case, the accused Tahir Hussain had refused to join the TIP proceedings. It was further submitted that presence of the accused Tahir Hussain at the place of incident is reflected from CDR location as well as CCTV footage. It was further submitted that there is sufficient incriminating material available on record against the accused and bail application of accused Tahir Hussain be dismissed.

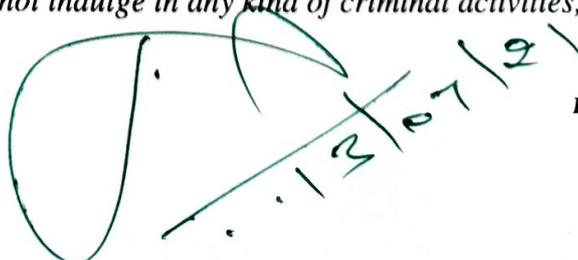
It is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.

In the present case, charge for the offence u/s 394/395/397/412/120-B IPC was framed against the accused Tahir Hussain. In the present case, complainant/eye witnesses have already been examined as PW-11, PW-13 and PW-21. In the present, all material

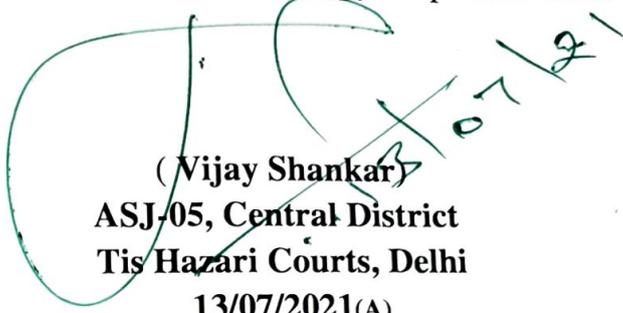

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witnesses have already been examined and only the official witnesses remain to be examined. It is pertinent to mention here that co-accused Mohd. Nazim and Arif were granted regular bail vide orders dated 05/10/2020 and 08/03/2021 respectively passed by the Hon'ble High Court of Delhi. In the present case, charge for the similar sections i.e. 394/395/397/412/120-B IPC was framed against the accused Tahir Hussain and Arif. Allegations against the accused Tahir Hussain and Arif are almost similar in nature. Accused is stated to be in J/C since 07/06/2015. Accused Tahir Hussain is stated to have no involvement in any other case. No useful purpose will be served by keeping the accused behind the bars. Considering the facts, circumstances and in view of the submissions made and on the ground of parity, bail application of the accused Tahir Hussain is allowed and accused Tahir Hussain is admitted to court bail on furnishing personal bond and surety bond in the sum of Rs. 25,000/- each with two sureties each of like amount to the satisfaction of the Court subject to the conditions that:-

- i) Accused shall not flee from the justice;*
- ii) Accused shall not tamper with the evidence;*
- iii) Accused shall not threaten or contact in any manner to the prosecution witnesses;*
- iv) Accused shall not leave the country without permission of the Court;*
- v) Accused shall convey any change of address immediately to the SHO/IO and the Court;*
- vi) Accused shall also provide his mobile number to the Court and SHO/IO.*
- vii) Accused shall keep his such mobile 'Switch On' at all the time;*
- viii) Accused shall regularly appear before the Court on each and every date of hearing;*
- ix) Accused shall not indulge in any kind of criminal activities;*

A handwritten signature in blue ink is written over the date 12/07/21. The signature is a large, stylized loop.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information and necessary action. Order be uploaded on the website of the Delhi District Court. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.



(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
13/07/2021(A)