

\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 1722/2021

SIRAZUDDIN Petitioner

Represented by: Mr. Salim Malik, Adv.

versus

STATE Respondent

Represented by: Mr. Rajat Nair, SPP, Mr. Amit Mahajan, SPP for State with Mr. Shantnu Sharma, Mr. Dhruv Pande, Adv. with Insp. V.N. Jha, PS Crime Branch.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

23.09.2021

%

The hearing has been conducted through Physical Mode.

1. By this petition the petitioner seeks regular bail in case FIR No. 75/2020 under Sections 144/147/148/149/153-A/295-A/427/436/380/302/120-B/34 IPC and Sections 25/27 Arms Act registered at PS Dayalpur.

2. Learned counsel for the petitioner states that even if the petitioner is witnessed in the CCTV footage, petitioner does not have any firearm in his possession. It was recovered from the possession of Sonu Saifi who is not seen in the video footage and as per the statement of the alleged eye-witness the firing was done by Mustakeem. The death of the deceased Rahul Solanki was caused due to firing and he had no other injury including an injury by a danda. Further there is no CCTV footage of the relevant time.

Rahul Solanki is not an eye witness and the alleged eye witness Anil Kumar has not named the petitioner.

3. The above-noted FIR was registered on a DD entry whereafter statement of Rohit Solanki, the brother of the deceased Rahul Solanki was recorded. Statement of Anil Kumar, the cousin brother of the deceased was also recorded, who stated that on 24th February, 2020 at about 5.30 PM he along with Rahul went to Shiv Vihar to buy grocery items They saw a mob at Pal Dairy Wali Gali, Mahalaxmi Enclave. After reaching at some distance they thought that there will be more riots on the main road and hence they started to return home. When they reached back opposite Pal Dairy Wali Gali, Behind Rajdhani Public School Gali, one boy out of the rioters who was having pistol in his hand and was wearing helmet, came ahead while firing and suddenly shot at the neck of Rahul Solanki.

4. As per Rahul Solanki, on coming to know about the incident, he immediately reached the spot. His cousin brother Anil Kumar was with his brother Rahul. They took Rahul to 2-3 hospitals, however they were refused and finally he was taken to GTB Hospital where he was declared brought dead.

5. Anil Kumar, also stated that they saw that lots of people had gathered and while standing in Gali No.1, 40 – 50 people having pistol, lathi – dandas in their hand and were pelting stones and patrol bomb and raising slogans. Those people were breaking the shops of streets and burning on the main road. They have caused lots of damage in Pal Gali. The rioters were again and again coming towards them and pelting stones. In the meantime, a heavy built boy, who was having black helmet in his left hand and a pistol like weapon in his right hand and was wearing blue T-shirt, came from the

street of Main Mustafabad Road and while standing in front of Pal Dairy Godown, fired towards them. The bullet directly hit to the neck of brother Rahul.

6. Petitioner is stated to be a member of the said mob. As per the video footages available till 4.15 PM, where after the video was damaged by one of the members of the mob, the petitioner is seen as a part of the mob carrying a danda. Contention of learned counsel for the petitioner is that Anil Kumar has not named the petitioner. A perusal of the statement of Rahul reveals that after seeing the video footage, he identified the people present in the mob, out of which petitioner was one of them. Anil Kumar is the cousin brother of the deceased and was not residing with them, and hence did not know the local residents.

7. Considering the fact that at the moment charge is yet to be framed and material witnesses are also required to be examined, this Court finds no ground to grant bail to the petitioner.

8. Petition is dismissed.

9. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

SEPTEMBER 23, 2021

‘ga’