

Reg. No. 1082/21
State Vs. Anwar Khan
FIR No. 199/2021
P.S. Welcome
Under Sec.: 186/353/332 IPC.

13.08.2021

Today, the Court is holding hearing of cases through video conferencing in compliance of circular no. 6233-6256/Judl./SHD/2021 dated 23.07.2021 issued by the Office of the Principal District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi.

Arguments on the bail application already heard on 05.08.2021.

ORDER

1. By way of this application under Section 438 Cr. PC applicant Anwar Khan prays for his pre-arrest bail for the aforementioned offences in case FIR No. 199/2021 registered against him at P.S. Welcome.
2. Ld. Col. Mr. Anurag Jain and Mr. M.M. Khan appearing for applicant submit that on the intervening night of 7/8.04.2021 at about 2.30 am, about 30-35 persons forcefully entered the house of applicant situated at first floor of A-33, near Mother Dairy, DDA colony after breaking the lock of the main door of the house. Further, all persons extended brutal beatings to the applicant with legs and fist blows as well as with butt of fire arms and some sharp edged weapons in their hands. Further, these persons disclosed that they were police persons. The applicant's wife tried to save the applicant, the police persons abused the wife of applicant filthily and gave her beatings too; that both minor daughters and two nephews of applicant present in the house were also given beatings by the police officials, when they raised hue and cry; that the applicant suffered grievous

head and bodily injuries at the hands of police officials; that they completely ransacked the entire house; that the applicant was badly injured with blood splattering all over his body and his wife gave a call at 100 number; that many persons from neighbourhood had gathered near the house and PCR reached the spot and took the applicant and his nephew to hospital for treatment at Jag Pravesh Chandra Hospital, Shastri Park from where they were referred to RML hospital.

3. Ld. Col. for applicant submits that all police officials illegally raided the house of applicant on the intervening night of 7/8.04.2021 and during this incident, they also took out DVDRs of the CCTV cameras installed at applicant's house. Ld. Col. submits that the applicant and his family are victims at the hands of these police officials and to further terrorize them, the present FIR was got registered by errant police officials, levelling false and baseless allegations against applicant. Ld. Col. submits that applicant is entitled to the protection in view of his imminent arrest in the present case lodged by police officials. Ld. Col. submits that a WP CrI. 899/2021 was filed before Hon'ble Delhi High Court against the illegal raiding of the house of applicant by police officials and notices have been issued to the State as well as other respondents by order dated 23.04.2021.
4. Ld. Addl. PP for State per contra submits that a joint raiding team had raided the house of applicant on the intervening night of 07/08.04.2021 since a secret information was received at Narcotics Squad of South District in respect of hideouts of two criminals namely Shahrukh and Govind @ Danny in the area of P.S. Welcome. Ld. Addl. PP submits that the complainant is the raiding team of South District Team whereas the investigation in present case is being conducted by IO of P.S. Welcome (NE District). It is contended however that

during raid, nothing has been found from the house of applicant. It is contended that applicant has tainted record in as much as he is involved in 4 criminal cases pending against him relating to the year 2000, 2002, 2013 and the year 2014 respectively.

5. I have heard respective submissions addressed on either side and have looked into the material on record.
6. By order dated 28.04.2021, this Court observed that despite specific directions, no response was received from SHO P.S. Welcome or (Narcotics South). Again by order dated 30.04.2021, a detailed report was called from DCP (South) on account of few queries raised in the matter. By order dated 03.07.2021, this Court observed that the status report filed by Addl. DCP (South) did not address those queries raised vide order dated 30.04.2021. On being enquired into the same from Addl. DCP (South) (who was present through VC), submitting nearing in most discourteous tone, Addl. DCP (South) stated that this Court was unfair in respect of its comments alleging the raid in its order dated 30.04.2021.
7. The Investigating Agency did not file the medical record / MLC of the injured/applicant and instead kept seeking adjournments by mentioning that the opinion on the nature of injuries upon the person of applicant was still awaited. The matter was taken up again on 23.07.2021 with directions to the Investigating Agency to file the medical record/MLC of the injured/applicant and that of Tej Narain.
8. The bail application was received as per roster again on 28.07.2021 in which this Court observed that despite specific directions, no compliance had been made of the queries raised by this Court in its order dated 30.04.2021. Finally DCP (South) filed a report on 31.07.2021 and perusal of the same would reveal that the same seems to be the reproduction of the earlier

reports filed by the IO without addressing the queries.

9. Be that as it may, the bail application has come up as per roster before the Court and arguments have been heard. Ld. Addl. PP for State forwarded his submissions on 05.08.2021 and opposed the application by contending that the raiding party consisting of police officials had gone to the house of applicant based on specific information regarding the shelter given by applicant to dreaded criminals Shahrukh and Govind @ Danny who are involved in murder cases. It is contended that the applicant started shouting and using abusive language to police and suddenly took out a blade and attacked upon few members of the raiding party and then inflicted injuries upon his own body.
10. The reply of DCP (South) dated 31.07.2021 indicates that accused Shahrukh and Govind @ Danny involved in serious offences are wanted criminals. The report indicates that in the year 2015 these were also involved in a shootout of Karkardooma Courts Complex (particulars not mentioned) and as such there was a specific secret information about their whereabouts and that shelter was given to them by the applicant Anwar Khan. The report indicates that a joint raiding team had raided the house of the applicant at 2.00 am (midnight) of 7/8.04.2021 and after an hour, a person identified as Anwar Khan (applicant) came out of his house and was told the purpose of visit but instead applicant started shouting by using abusive language and took out a blade and attacked the members of raiding team; he continued his aggressive behaviour and also injured himself with the said blade.
11. This Court observes that the Report of DCP is non-speaking as to despite repeated orders, police agency particularly Addl. DCP (South) failed to address the queries raised by this Court for reasons best known to them. Secondly

the MLC / medical record of the applicant has not been filed by the IO till date to ascertain the nature of injuries sustained by applicant and reasons are inexplicable.

12. Present is a serious matter where, 6 police officials as directed by their superiors (Narcotics South) engaged *prima facie* in an illegal act i.e. barging into house of applicant (few of them in uniform) in the middle of the night, kept knocking the door for about an hour to arrest applicant on mere suspicion of his being involved in sheltering other accused persons. It is the admitted case that raiding party did not recover anything from the applicant's house. The raiding party members were all police personnel and it was their duty to uphold the law. But far from performing their duties, they appear to have acted as criminals. In Bible, saying is "if the salt has lost its flavour, wherewith shall it be salted?" or as the ancient Romans would generally say "Who will guard the Praetorian guards?" The house of the applicant was raided on alleged specific information as mentioned in police Report. However *ex facie* there is nothing in support of the fact of alleged specific information with police that applicant was sheltering the accused persons.
13. The contention of Ld. Addl. PP that the applicant himself inflicted injuries upon his person is not appealing to any reason. Furthermore, as per their own version, police party kept knocking the door for about 45 minutes and waited there, still it could not join any person from neighbouring houses as an independent witness to the alleged act.
14. Secondly, the photographs of applicant with blood splattered all over show the injuries inflicted on him and story of self inflicted injuries does not appeal to any reason. The act of the police officials of raiding the applicant's house, ransacking

the same besides attacking and extending injuries to him and his family members sans any reason can be termed as the worst state of affairs possible in society.

15. It is settled legal proposition as expounded by Hon'ble Apex Court in **P. Chidambaram Vs. Directorate of Enforcement [(2019) 9 SCC 24]** that the investigation is in the domain of the Investigating Officer and the Courts are not supposed to interfere in the investigation. However, it is imperative on their part to conduct the investigation strictly in accordance with law, in fair and impartial manner, without being influenced by any extraneous considerations. The protectors are not supposed to become predators.
16. There is *prima facie* nothing in support of the reason of the alleged raid conducted by police party ordered by their superiors. Therefore, having regard to my observations as above and keeping in view the material available on record but without expressing any opinion on merits, the anticipatory bail application filed by applicant Anwar Khan stands allowed.
17. In the event of arrest, applicant be released on his furnishing personal bond in the sum of Rs.25,000/- with a surety of like amount to the satisfaction of IO/Arresting Officer with following conditions;
 1. *He shall join the investigation as and when called by the IO/SHO.*
 2. *He shall furnish his address as well as his contact number to the Investigating Officer.*
 3. *Applicant and surety shall intimate this Court immediately after any change in their addresses.*

18. The application stands disposed off with the directions to the Joint Commissioner Police to ensure that the investigation in this matter be conducted strictly in accordance with law in fair and impartial manner.
19. The Joint Commissioner Police is further directed to enquire into the number of such alleged raids conducted by police teams at the behest of Addl. DCP (South) during his tenure as Addl. DCP(South) and Report within 2 weeks.

Copy of the order be given dasti to the parties including IO/be sent to them through whatsapp/email/telephonically. The digitally signed order-sheet of the undersigned be placed on record.

(Ms. Ravinder Bedi)
ASJ-02/E-Court/Shahdara
KKD/Delhi/13.08.2021