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

+ **BAIL APPLN. 2517/2021**

DEEPAK @ DEEPAK KUMAR

..... Petitioner

Through Mr. M P Sinha, Mr. Yatharth Sinha,  
Mr. Gaurav Bindal, Mr. Shikhar  
Aggarwal, Mr. Hitesh Thakur, Mr.  
Harsh Khirwal, Mr. Nikhil  
Hemrajani, Mr. Mrigank Shekhar  
Mehta, Mr. Neeraj Kanwar and Mr.  
Mayank Rana, Mr. Vaibhav Sharma,  
Mr. Vicky Kumar, Mr. Akshay  
Kumar, Mr. Abhyudaya Vats, Mr.  
Rajesh Chaudhary, Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through Mr. Madhukar Pandey, SPP for the  
State with Insp. Harish Chandra &  
ASI Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 2519/2021**

DEEPAK @ DEEPAK KUMAR

..... Petitioner

Through Mr. M P Sinha, Mr. Yatharth Sinha,  
Mr. Gaurav Bindal, Mr. Shikhar  
Aggarwal, Mr. Hitesh Thakur, Mr.  
Harsh Khirwal, Mr. Nikhil  
Hemrajani, Mr. Mrigank Shekhar  
Mehta, Mr. Neeraj Kanwar and Mr.  
Mayank Rana, Mr. Vaibhav Sharma,  
Mr. Vicky Kumar, Mr. Akshay  
Kumar, Mr. Abhyudaya Vats, Mr.  
Rajesh Chaudhary, Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through Mr. Saleem Ahmad, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 2527/2021**

DEEPAK @ DEEPAK KUMAR

..... Petitioner

Through Mr. M P Sinha, Mr. Yatharth Sinha,  
Mr. Gaurav Bindal, Mr. Shikhar  
Aggarwal, Mr. Hitesh Thakur, Mr.  
Harsh Khirwal, Mr. Nikhil  
Hemrajani, Mr. Mrigank Shekhar  
Mehta, Mr. Neeraj Kanwar and Mr.  
Mayank Rana, Mr. Vaibhav Sharma,  
Mr. Vicky Kumar, Mr. Akshay  
Kumar, Mr. Abhyudaya Vats, Mr.  
Rajesh Chaudhary, Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through Mr. Madhukar Pandey, SPP for the  
State with Insp. Harish Chandra &  
ASI Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 2528/2021**

DEEPAK @ DEEPAK KUMAR

..... Petitioner

Through Mr. M P Sinha, Mr. Yatharth Sinha,  
Mr. Gaurav Bindal, Mr. Shikhar  
Aggarwal, Mr. Hitesh Thakur, Mr.  
Harsh Khirwal, Mr. Nikhil  
Hemrajani, Mr. Mrigank Shekhar  
Mehta, Mr. Neeraj Kanwar and Mr.  
Mayank Rana, Mr. Vaibhav Sharma,  
Mr. Vicky Kumar, Mr. Akshay  
Kumar, Mr. Abhyudaya Vats, Mr.  
Rajesh Chaudhary, Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through Mr. Saleem Ahmad, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**

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**25.01.2022**

**HEARD THROUGH VIDEO CONFERENCING**

1. The Petitioner invokes Section 439 CrPC seeking grant of regular bail in the following cases:-

(i) Bail Application: 2528/2021 praying for regular bail, in FIR No. 64/2020 dated 28.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380,436, 427 IPC.

(ii) Bail Application 2527/2021praying for regular bail, in FIR No. 65/2020 dated 28.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380,436, 427 IPC.

(iii) Bail Application 2519/2021praying for regular bail, in FIR No. 67/2020 dated 29.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380, 436 and 427 IPC.

2. The brief facts in FIR No.64/2020 are stated as under-

(i) The FIR came to be registered on the complaint given by one Abdul Nadir S/o Abdul Star, R/o H. No.C-202, Purana Ganv Garhi Mendu Delhi, Shastri Park, Delhi. It is stated that on 24.2.2020the complainant came out of his house at 6:30pm to offer his prayers at the Mosque and saw a group of 25-30 men, who were CAA

protestors, armed with sticks, stones and bricks, iron rods and started vandalizing properties.

(ii) It is stated that the complainant on seeing the mob went back into his house and from his terrace saw the mob destroy the local mosque. It is stated that the atmosphere got very tense and the complainant took his family and escaped to a safety house in Khajuri. It is stated that on returning back he saw his house had been burnt down and his belongings had been stolen. It is stated that neighbor's house and car had also been burnt down.

3. The brief facts in FIR No. 65/2020 are stated as under-

(i) The FIR came to be registered on the complaint given by one Mohd. Javeddin S/o Mohd. Jaleemuddin, R/o H.No. 120B, Gav Purana Garhi Mendu, Shastri Park, Delhi. It is stated that on 24.2.2020, the complainant came out of his house at 6:30pm to visit the Mosque and saw a group of 25-30 men, who according to him were CAA protestors. It is stated that they were armed with stones, sticks, dandas, iron rods and bricks and started destroying properties in the area. It is stated that on seeing this, he got frightened and back into his house.

(ii) It is stated that on witnessing a threat to his life and limb, he took his family to his house in village Old Garhi Mandu. It is stated that on returning back, the complainant saw his house had been burnt down and articles from his house had been stolen. It is stated that the car and house of his neighbor, one Unaf had been burnt down and the Bolero car his neighbor Hasan had also been burned in a fire.

4. The brief facts if FIR No. 67/2020 are stated as under-

(i) The instant FIR got registered on the complaint of one Mehboob Hasan S/o Basheer Ahmad, R/o H.No. B-202, Khasra No.77, Gav Purana, Garhi Mendu, Shastri Park, Delhi. It is stated that the complainant was going to the Mosque in village Gahri Mandu at 6:00pm on 24.2.2020 and saw a mob of 25-30 people becoming violent. It is stated that the persons had with them-Sticks, stones, iron rods etc. and returned back into his house.

(ii) It is stated that the complainant, in order to ensure safety of his family took them to another house of his in old village near Khajuri. It stated that when he returned to his house after the mob had left, his house had been burnt to the ground and his possessions had been stolen; similarly, his neighbors' - Irdish Khan, Nassem and Ajum's houses which had been taken on rent by them had also been set fire to.

5. The Sessions Court, Karkardooma vide a common order dated 26.6.2021 dismissed the bail applications of the Petitioner on the grounds that the petitioner had been identified as an assailant by the respective complainants, that the identification of the Petitioner was supported by statements given by witnesses to the incident and that there was no change in circumstances from the last time when the Petitioner approached the Court with the same prayer, for the Court to decide the matter differently.

6. Mr. M.P. Sinha, Ld. Counsel for the Petitioner submitted at the investigation in all the FIR's where the Petitioner has been named an accused, stands completed and Chargesheet in them has been filed. He submitted that the Petitioner has been in custody for over 18 months that the prolonged custody of the Petitioner doesn't serve any purpose. He submitted that the charges framed

don't involve heinous offences such as Murder or culpable homicide. He submitted that in two other cases namely, FIR No.74/2020 and FIR No. 75/2020 registered at PS Shastri Park, the Petitioner, on similar accusations and facts, was granted bail vide order dated 3.5.2021. He submitted that there was no recovery of any weapon from the Petitioner. He further submitted that the petitioner has been implicated in the case on the sole basis of disclosure statements and not on the basis of being identified on CCTV footages.

7. Per Contra, Mr. Madhukar Pandey, Ld. SPP, vehemently opposed the bail application. He submitted that the Petitioner was identified as a part of the attacking mob by one of the complainant's, as well as witnesses to the violence. Further, they have been seen clearly on the CCTV footage which recorded the crime. He submits that the Petitioner's involvement stands corroborated by statements of other accused who were a part of the same mob. He submitted that the CDR of the Petitioner was analysed and it confirms his presence at the crime scene on the day, at the time when violence broke out. He additionally contended that the Petitioner refused to participate in the Test Identification Parade. He submitted that the possibility of the Petitioner threatening witnesses cannot be ruled out.

8. I have heard submissions of both rivaling parties and perused the material on record. Chargesheet in the cases have been filed on 5.1.2021.

9. The investigation in the case is complete, evidence against the Petitioner has been collected and has been put forth in the Final Report. A perusal of the record indicates allegations pertaining to mobbing, rioting, and destruction of private property. A reading of the FIR's and chargesheet demonstrates that no human life was harmed or lost and therefore don't make out an offence where

injury and hurt has been inflicted to the life and limb of any of the complainants or their respective family members.

10. While dealing with an application for bail, a Court needs to bear in mind a wide multitude of factors. The factors range from the severity of the offence - to whether there is a possibility of tampering with evidence - to whether the person has deep roots in society – to whether liberty granted can lead to misuse or a subjugation of the administration of justice or poses social unrest. The objective of bail during a pending trial is merely to secure the presence of an accused at Trial before a Court so that the course of justice is not fettered by mischief of the accused. The purpose of granting or declining bail is neither preventative or punitive and therefore extended incarceration of an accused is unnecessary if a Court finds the above conditions are satisfied.

11. The Petitioner has undergone a period of 18 months in judicial custody as an undertrial and has been inside jail for a year since the chargesheet was filed. Given the fact that the Trial may take a long time to commence and conclude, especially in the face of the current pandemic, this Court believes that the further judicial custody of the Petitioner will serve no useful purpose.

12. During the course of the hearing, a query was put to the learned counsel for the petitioner that since the petitioner and the complainants reside in the same locality, there is a threat that if the petitioner is granted bail, he will threaten the witnesses. Confronted with this, learned counsel for the petitioner stated that he will stay away from the locality where the petitioner resides. The petitioner states that he would reside at H.No.208 (Near Leelu Ram General Store) Gudadiya Mohalla, Sabhapur, Karwal Nagar, North East Delhi-110094. The Investigating Officer has verified the address. The Investigating Officer has also recorded the

statements of his neighbours. Verification Report dated 23.01.2022 has been filed whereby the satisfaction of the Police regarding the correctness of the address is recorded.

13. In view of the above, this Court is inclined to grant regular bail to the Petitioner in FIR's No. 64/2020, 65/2020 and 67/2020 on the following conditions-

- (i) The Petitioner shall furnish a bail bond of Rs. 35,000/- with two sureties of the like amount, one of them being a relative, to the satisfaction of the Trial Court.
- (ii) The petitioner states that he will reside at H.No.208 (Near Leelu Ram General Store) Gudadiya Mohalla, Sabhapur, Karwal Nagar, North East Delhi-110094. He shall continue to reside at the same address and any change in the same shall be intimated to the Investigating Officer.
- (iii) The Petitioner shall report twice every week- Monday and Thursday, to I.O. Shastri Park Police Station at 10:30am and be released at 11:00am by the police after recording his presence in the case diary.
- (iv) The Petitioner shall not influence, coerce or threaten witnesses or tamper with evidence.
- (v) The Petitioner shall give all his mobile numbers to the I.O. and shall keep them operational at all times.
- (vi) The Petitioner shall be available and cooperate with the Police as and when required.
- (vii) Any omission to comply with any of the above conditions, if substantiated, shall result in the immediate cancellation of bail given to the Petitioner.

14. The petition is disposed of with the above observations. Pending applications, if any, stand disposed of.

**SUBRAMONIUM PRASAD, J**

**JANUARY 25, 2022**

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\$~31, 35, 36 & 37

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

+ **BAIL APPLN. 4068/2021**

RAJ SINGH

..... Petitioner

Through Mr. G.P. Thareja with Mr. Satyam  
Thareja and Mr. Harshit Thareja,  
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Saleem Ahmed, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 3678/2021**

RAJ SINGH

..... Petitioner

Through Mr. G.P. Thareja with Mr. Satyam  
Thareja and Mr. Harshit Thareja,  
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Saleem Ahmed, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 3727/2021**

RAJ SINGH

..... Petitioner

Through Mr. G.P. Thareja with Mr. Satyam  
Thareja and Mr. Harshit Thareja,  
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through:

Mr. Saleem Ahmed, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park.

+ **BAIL APPLN. 3913/2021**

RAJ SINGH

..... Petitioner

Through

Mr. G.P. Thareja with Mr. Satyam  
Thareja and Mr. Harshit Thareja,  
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through

Mr. Saleem Ahmed, SPP for the State  
with Insp. Harish Chandra & ASI  
Narender Singh, PS Shastri Park

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**

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**25.01.2022**

**HEARD THROUGH VIDEO CONFERENCING**

1. The Petitioner seeks regular bail under Section 439 CrPC in the following cases:-

- (i) Bail Application 3678/2021 praying for regular bail, in FIR No.64/2020 dated 28.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380,436, 427 IPC.
- (ii) Bail Application 3727/2021 praying for regular bail, in FIR No. 65/2020 dated 28.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380,436, 427 IPC.
- (iii) Bail Application 4068/2021praying for regular bail, in FIR No. 66/2020 dated 29.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149, 380, 436 and 427 IPC.

(iv) Bail Application:3913/2021 praying for regular bail in FIR No.67/ 2020 dated 29.2.2020 registered at PS Shastri Park for offences committed u/s 147,148,149,380, 436, and 427 IPC.

2. The brief facts in FIR No.64/2020 are stated as under-

(i) The FIR came to be registered on the complaint given by one Abdul Nadir S/o Abdul Star, R/o H. No.C-202, Purana Ganv Garhi Mendu Delhi, Shastri Park, Delhi. It is stated that on 24.2.2020 the complainant came out of his house at 6:30pm to offer his prayers at the Mosque and saw a group of 25-30 men, who were CAA protestors, armed with sticks, stones and bricks, iron rods and started vandalizing properties.

(ii) It is stated that the complainant on seeing the mob went back into his house and from his terrace saw the mob destroy the local mosque. It is stated that the atmosphere got very tense and the complainant took his family and escaped to a safety house in Khajuri. It is stated that on returning back he saw his house had been burnt down and his belongings had been stolen. It is stated that neighbor's house and car had also been burnt down.

3. The brief facts in FIR No. 65/2020 are stated as under-

(i) The FIR came to be registered on the complaint given by one Mohd. Javeddin S/o Mohd. Jaleemuddin, R/o H.No. 120B, Gav Purana Garhi Mendu, Shastri Park, Delhi. It is stated that on 24.2.2020, the complainant came out of his house at 6:30pm to visit the Mosque and saw a group of 25-30 men, who according to him were CAA protestors. It is stated that they were armed with stones, sticks, dandas, iron rods and bricks and started destroying properties in the

area. It is stated that on seeing this, he got frightened and back into his house.

(ii) It is stated that on witnessing a threat to his life and limb, he took his family to his house in village Old Garhi Mandu. It is stated that on returning back, the complainant saw his house had been burnt down and articles from his house had been stolen. It is stated that the car and house of his neighbor, one Unaf had been burnt down and the Bolero car his neighbor Hasan had also been burned in a fire.

4. The brief facts in FIR No. 66/2020 are stated as under –

(i) The instant FIR got registered on the complaint of one Mohd. Israeel S/o Mohd. Suleman, R/o H.No. 280, Khasra No.77, Gav Purana, Garhi Mendu, Shastri Park, Delhi. It is stated that on 24.2.2020 at 8:30pm the complainant was at his house where he heard a loud noise and went to his rooftop from where he saw a group of 30-35 persons armed with dandas, lathis, stones and iron rods. It is stated that the group was chanting slogans and attacking people, shops and properties with stones and dandas.

(ii) It is stated that the complainant jumped into the back alley and saw the mob enter his house, destroying articles and setting the house on fire. It is stated that he ran to Khajuri in fear of injury and on returning saw that his house had been completely burned and the shops, houses and car of his neighbors had also been torched.

5. The brief facts in FIR No. 67/2020 are stated as under-

(i) The instant FIR got registered on the complaint of one Mehboob Hasan S/o Basheer Ahmad, R/o H.No. B-202, Khasra No.77, Gav Purana, Garhi Mendu, Shastri Park, Delhi. It is stated

that the complainant was going to the Mosque in village Gahri Mandu at 6:00pm on 24.2.2020 and saw a mob of 25-30 people becoming violent. It is stated that the persons had with them-Sticks, stones, iron rods etc and returned back into his house.

(ii) It is stated that the complainant, in order to ensure safety of his family took them to another house of his in old village near Khajuri. It stated that when he returned to his house after the mob had left, his house had been burnt to the ground and his possessions had been stolen; similarly, his neighbors' - Irdish Khan, Nassem and Ajum's houses which had been taken on rent by them had also been set fire to.

6. The Ld. Sessions Court Karkardooma, vide a common order dated 21.12.2020 dismissed the bail applications of the Petitioner on the grounds that a danda was recovered from the Petitioner, that he was identified and named by the witnesses in their statements and supplementary statements u/s161 CrPC, that the role of the petitioner was instrumental and that the investigation was at a crucial stage requiring the custody of the Petitioner.

7. Mr. G.P. Thareja, Ld. Counsel for the Petitioner contended that the investigation in the cases are complete and chargesheets were filed. He contended the evidence against him so far was in the form of disclosure statements and DVR recordings which would be examined at Trial. He submitted that the charges framed don't involve heinous offences such as Murder or culpable homicide He submitted that the Trial would take a long time to finish and Petitioner has been in judicial custody for 15 months, therefore no further custody is required in the cases. Further, he submitted that the petitioner is the sole earning member of his

family having roots in society and was in no position to tamper with evidence or influence witnesses. Therefore, he should be granted bail.

8. Per Contra, Mr. Saleem Ahmed, Ld. SPP, vehemently opposed the bail application. He submitted that the Petitioner was the main perpetrator, who lead the mob and was seen in the CCTV clippings holding a danda indulging in mob violence and arson with 10-15 other people. He submitted that the Petitioner had been evading arrest before and surrendered before Mandoli jail after his anticipatory bail was rejected by this Court. He submitted that during investigation CDR of the Petitioner was summoned and it was found that he was present at the scene of crime on the day of the incident. He submitted that the Petitioner was named and identified by witnesses in their Section 161 CrPC statements and if he would be released on bail, there would be a possibility of him threatening witnesses.

9. I have heard submissions of both rivaling parties and have perused the material on record.

10. The investigation in the case is complete, evidence against the Petitioner has been collected and has been put forth in the Final Report. A perusal of the record indicates allegations pertaining to mobbing, rioting, and destruction of private property. A reading of the allegations in the FIR's and chargesheet demonstrates that no human life was harmed or lost and therefore don't make out an offence where injury and hurt has been inflicted to the life and limb of any of the complainants or their respective family members.

11. While dealing with an application for bail, a Court needs to bear in mind a wide multitude of factors. The factors range from the severity of the offence - to whether there is a possibility of tampering with evidence - to whether the person

has deep roots in society – to whether liberty granted can lead to misuse or a subjugation of the administration of justice or poses social unrest. The objective of bail during a pending trial is merely to secure the presence of an accused at Trial before a Court so that the course of justice is not fettered by mischief of the accused. The purpose of granting or declining bail is neither preventative or punitive and therefore extended incarceration of an accused is unnecessary if a Court finds the above conditions are satisfied.

12. The Petitioner has undergone a period of 15 months in judicial custody as an undertrial and has been inside jail for a year since the chargesheet was filed. Given the fact that the Trial may take a long time to commence and conclude, especially in the face of the current pandemic, this Court believes that the further judicial custody of the Petitioner will serve no useful purpose.

13. During the course of the hearing, a query was put to the learned counsel for the petitioner that since the petitioner and the complainants reside in the same locality, there is a threat that if the petitioner is granted bail, he will threaten the witnesses. Confronted with this, learned counsel for the petitioner stated that he will stay away from the locality where the petitioner resides. The petitioner states that he would reside at H.No.A-1, Gali No.1, Mukund Vihar, Karawal Nagar, North East Delhi-110094. The Investigating Officer has verified the address. The Investigating Officer has also recorded the statements of his neighbours. Verification Report dated 23.01.2022 has been filed whereby the satisfaction of the Police regarding the correctness of the address is recorded.

14. In view of the above, this Court is inclined to grant regular bail to the Petitioner in FIR's No. 64/2020, 65/2020, 66/2020 and 67/2020 filed on the following conditions-

- (i) The Petitioner shall furnish a bail bond of Rs. 35,000/- with two sureties of the like amount, one of them being a relative, to the satisfaction of the Trial Court.
- (ii) The petitioner states that he will reside at H.No.A-1, Gali No.1, Mukund Vihar, Karawal Nagar, North East Delhi-110094. He shall continue to reside at the same address and any change in the same shall be intimated to the Investigating Officer.
- (iii) The Petitioner shall report twice every week- Monday and Thursday, to I.O. Shastri Park Police Station at 10:30am and be released at 11:00am by the police after recording his presence in the case diary.
- (iv) The Petitioner shall not influence, coerce or threaten witnesses or tamper with evidence.
- (v) The Petitioner shall give all his mobile numbers to the I.O. and shall keep them operational at all times.
- (vi) The Petitioner shall be available and cooperate with the Police as and when required.
- (vii) Any omission to comply with any of the above conditions, if substantiated, shall result in the immediate cancellation of bail given to the Petitioner.

15. The petition is disposed of with the above observations. Pending applications, if any, stand disposed of.

**SUBRAMONIUM PRASAD, J**

**JANUARY 25, 2022**

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