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

Order reserved on :26/08/2022

Order pronounced on :07/12/2022

+ **BAIL APPLN. 963/2022**

SADIQ ALIAS SAHIL

..... Petitioner

Through: Mr. Kartik Venu, Ms. Swati
Khanna and Ms. Faisal
Ahmed, Advs.

versus

STATE OF NCT DELHI

..... Respondent

Through: Ms. Richa Dhawan,
Addl.PP for State.

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

POONAM A. BAMBA, J.:

1.0 *Vide* this application under Section 439 of Code of Criminal Procedure, 1973 (*hereinafter referred to as the* “Cr.P.C., 1973”), the petitioner-Sadiq @ Sahil has sought bail in FIR No. 60/2020 dated 25.02.2020 registered at Police Station Dayalpur under Sections 186/353/332/333/323/109/144/147/148/149/153A/188/336/427/307/308/397/412/302/201/120-B/34 of Indian Penal Code, 1860 (‘IPC’ in short) read with Sections 3 and 4 of Prevention of Damage to Public Property Act, 1984, Sections 25/27/54/59 of the Arms Act, 1959.

2.0 This is the fourth bail application of the petitioner. Petitioner’s first bail application was dismissed as withdrawn vide Order dated 14.09.2020. His second bail application was dismissed by this Court vide Order dated 14.09.2021. Petitioner’s third bail application was rejected by Ld. ASJ, NE, KKD Distt. Court, New Delhi vide Order dated

09.02.2022.

3.0 Prosecution case is that the protest was going on against the Citizenship (Amendment) Act, 2019 (*hereinafter referred to as “CAA”*) for about four and a half months. The complainant-Constable Sunil Kumar was on duty along with HC Ratan Lal (deceased) and others, namely, Giri Chand, Ct. Mahavir, Ct. Jitender, HC Narender, HC Brijesh, W/HC Savitri, as well as DCP Shahdara District, Amit Kumar and his staff.

3.1 On 23.02.2020, the protestor sitting at Wazirabad Main Road, Chand Bagh, unauthorizedly came on the road and blocked the traffic. However, local police managed to bring the law and order situation under control and Proclamation under Section 144 of Cr.P.C., 1973 was issued. Organizers’ attempt to march towards Rajghat on 23.02.2020 failed, but they along with accused persons planned to carry on the illegal protest. Pursuant thereto, several CCTV cameras installed in the area of Chand Bagh for area security by GNCTD, were disconnected/damaged/ destroyed starting from 08:00:41 a.m on 24.02.2020 in a planned and synchronized manner till 12:50:57 pm. Despite the Proclamation of prohibition orders, the illegal protest of Chand Bagh continued. Keeping in view the seriousness of the mater, on 24.02.2020, the DCP Shahdara and the ACP Gokulpuri along with other staff was deployed for law and order arrangement. Between 12:30 pm and 01:00 p.m. suddenly on the call of organizers, protestors carrying *danda/lathies*, baseball bats, iron rod and stones started gathering at main Wazirabad Road. The senior officers and police force tried to stop them and asked them to return to the service road, however, the protestors did not pay heed to their lawful directions and became violent.

The gathering got out of control and started pelting stones on the police party on duty. Soon this large mob started lynching the police personnel without any provocation. More than 50 police personnel got injured and HC Ratan Lal, who was deployed at the spot, was shot dead. The DCP Shahdara, Amit Sharma and the ACP Gokulpuri, Anuj Kumar also received serious injuries. The violent mob burnt government vehicles as well as private vehicles parked at the roadside. This soon spiralled into a big riot and the mob selectively started targeting the properties of a particular community. Several properties in the vicinity were burnt, including a petrol pump and a car showroom.

3.2 On the complaint of Constable Sunil Kumar, FIR No. 60/20 dated 25.02.2020 under Sections 186/353/332/333/147/148/149/336/427/307/302/120B of IPC, 1860 was registered at Police Station Dayalpur and investigation was taken up.

3.3 During the course of investigation, three videos, namely, Vishal Chaudhary's Video (1.48 min) shot from Gym Body Fit garage, Skyride Video (1.37 min) and Yamuna Vihar Video (40 sec) were found which clearly showed the manner, in which the pre-planned assault on police personnel took place. CCTV footages of CCTV systems installed near the place of incident were taken on record. Some videos posted on social media were also taken on record as per procedure. Main charge-sheet in the case was filed on 08.06.2020, which was followed by four supplementary charge-sheets filed on 30.06.2020, 20.08.2020, 17.11.2020 and 30.12.2020.

4.0 Vide this application, it is submitted on behalf of the petitioner that he has been falsely implicated in the case on the basis of vague and

general allegations and was arrested on 14.04.2020.

4.1 It is submitted that the petitioner was not named by the complainant-Constable Sunil in the initial complaint/FIR No. 60/2020. There is no evidence on record to connect the petitioner to the incident beyond reasonable doubt. It is also submitted that the evidence placed on record is not admissible and therefore, the petitioner cannot be convicted on the basis of the available material. Thus no purpose would be served by keeping the petitioner behind bars.

5.0 Suffice it to state that the petitioner has reiterated the averments already made by him in his previous application before this court, which have been duly considered by this court in its order dated 14.09.2021.

6.0 Learned counsel for the petitioner submitted that there is a change in circumstances as co-accused Adil has been granted bail vide order dated 08.11.2021, whose role has been stated to be similar in chargesheet dated 08.06.2020. He is seeking parity with co-accused persons, Adil, Mansoor, Arif and Tabassum. Learned counsel also argued that the another change in circumstance is that the matter has now been listed for arguments on charge.

6.1 Learned counsel for the petitioner also submitted that the petitioner undertakes not to flee from justice, influence any witness and undertakes to abide by any term and condition as may be imposed by this Court.

7.0 *Per contra*, the present application is strongly opposed by Ms. Richa Dhawan, Learned Additional Public Prosecutor for the State, who

submits that it was the first incident of unprovoked mass violence involving brutal assault on police personnel on duty, wherein HC Ratan Lal lost his life and DCP Shahdara, Amit Sharma and ACP Gokulpuri, Anuj Kumar suffered grievous injuries apart from more than 50 police personnel getting injured.

7.1 Vide status report it is mentioned that the role of the petitioner is very different from other accused persons who have been granted bail, as the petitioner is seen in the video clip made by Vishal Choudhary at 0:34 second pelting stones and carrying stick in other hand at 1:19 second of the same video. Further, the petitioner along with other accused persons was captured in CCTV footage of camera bearing ID Channel No. 06 installed at Aman Motors, A7 Khasra No. 30/2, Chand Bagh, Main Wazirabad Road, New Delhi at 13:10:40 on 24.02.2020. Similarly, the petitioner can be seen in another CCTV footage of GNCTD Camera bearing Id No. 7033161 along with his accomplice at 12:06:48. He is duly identified in the video along with other accused persons. During riots, the petitioner can be seen with other co-rioters, namely, Imran Ansari in two different CCTV footages, assaulting police personnel with sticks and pelting stones along with other co-accused person.

7.2 Status report also mentions that the clothes worn by the petitioner during riots have been recovered and are similar to the ones seen in the CCTV footages. The CDR of the petitioner's mobile number proves his location at the spot during riots. The petitioner's identity is also confirmed by Constable Sunil in his statement u/s 161 Cr.P.C recorded on 26.03.2020.

7.3 The status report further mentions that the petitioner is not entitled

to bail even on the ground of parity as no parity is made out with other accused, namely, Adil. The role of the petitioner is very different from that accused. It is submitted that even accused-Imran Ansari whose role is similar to that of the present petitioner had sought bail on the grounds of parity with accused-Adil, whose bail application was dismissed *vide* Order dated 18.04.2022 passed in I.A. No. 47/22 in SC No. 119/20 titled *State vs. Imran Ansari* (Annexure R-1).

8.0 In rebuttal, learned counsel for the petitioner submitted that the statement of the complainant-Constable Sunil was recorded after a delay of three days from the date of incident, which itself creates a doubt about the veracity of the same; the petitioner was not named in the FIR. Likewise, the statement of HC Shri Maninder was recorded after a delay of nearly two months after the incident.

8.1 Ld. counsel also submitted that the completion of trial would take a long time and the petitioner cannot be kept in custody for that long; out of 22 accused persons, 14 persons have been granted bail, considering substantial time which the trial may take.

9.0 I have duly heard the submissions made by both the sides.

10.0 Learned Additional Public Prosecutor has drawn attention of this Court to the photographs/stills of videos, wherein the accused can be seen (wearing the yellow (white) T-shirt) with co-accused Imran Ansari. It is submitted that the petitioner/accused has been caught in three videos, namely, Vishal Choudhary video, wherein the accused can be seen at 0:34 second, pelting stone and holding stick in hand at 1:19 second of the same video, and in CCTV footage of camera bearing

Channel No. 06 installed at Aman Motors, A7, Khasra No. 30/2, Chand Bagh, Main Wazirabad Road at 13:10:40 and also in CCTV footage of GNCTD camera bearing Id No. 7033161 at 12:06:48. Further, Vishal Choudhary's video shot from Gym Body Fit Garage was played in which, the accused is seen holding *danda* in one hand and pelting stones at the police personnel with his other hand. These facts already find mention in earlier order of this court dated 14.09.2021, rejecting the petitioner's bail.

11.0 It may be mentioned that although, vide this application, the petitioner has sought parity with co-accused namely, Mansoor, Arif, Tabassum and Adil, during the course of arguments, the learned counsel for the petitioner sought to draw parity only with the co-accused Adil and made submissions only in that regard. It was submitted that the charge-sheet itself defines the roles of the petitioner and the co-accused Adil as same; and the co-accused Adil has already been admitted to bail.

11.1 In this respect, the Learned Additional Public Prosecutor submitted that there is no parity between the petitioner and co-accused Adil. Moreover, this plea has already been examined by this Court in its Order dated 14.09.2021 while rejecting the petitioner's bail application. Learned Prosecutor also submitted that this Court has categorically mentioned in the said order that unlike the petitioner herein, none of the co-accused, who have been granted bail, were caught in an overt act which indicate their active participation in perpetrating the offences mentioned in FIR No. 60/2020. Same is borne out from the record.

12.0 In view of the above, the petitioner has failed to demonstrate any change in circumstances.

13.0 Considering the above facts and circumstances in entirety, the petitioner has failed to make out any case for bail much less on the ground of change in circumstances.

14.0 The petition is accordingly dismissed.

POONAM A. BAMBA)
JUDGE

DECEMBER 7, 2022/g.joshi

[Click here to check corrigendum, if any](#)

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