

IN THE COURT OF Dr. KAMINI LAU: JUDGE (MACT)-01,
CENTRAL DISTRICT, TIS HAZARI COURTS: DELHI

Bail Application No. 166/2020

FIR No. 250/2019

PS – Darya Ganj

U/S – 147/148/149/186/353/332/323/436/427/120-B/34 IPC &
Sec. 3/4 of Prevention of Damage of Public Property
Act, 1984.

15.01.2020

Present: Sh. Pankaj Bhatia, Ld. Addl. PP for the State with ACP
Sh. Manoj Pant, Inspector Pankaj Arora and IO SI
Santosh Kumar.

Sh. Mehmood Pracha, Sh. O.P. Bharti, Sh. R.H.A.
Sikander, Sh. Zahid Ali, Sh. Shariq Nisar, Sh.
Yashovardhan Oza, Sh. Vidushi Bajpai, Sh. Jatin Bhatt,
Sh. Naved Rajput, Sh. Khalid Saleem, Sh. Faisal
Mohammed, Sh V.C. Bharti, Sh. M.Z. Ali, Dr. B.P.
Nilaratna and Sh. M.S. Arya Advocates for the applicant/
accused.

Today when I deal with this bail application of the
applicant **Chander Shekhar Azad @ Ravan** the Bhima Army Chief
who is in judicial custody since last 25 days (w.e.f. 21.12.2019) for
forcefully protesting at Jama Masjid in the Wall City on 20.12.2019
against the Citizenship Amendment Act and National Register of
Citizen, I am reminded of our reverend patriotic poet Rabindranath
Tagore who is most relevant today. He during the Colonial Era in
early 1900's when the British followed the policy of Divide and Rule,

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visualized a nation where there is no fear in the mind of people and education is attained by all; people are enlightened and do not create walls of discrimination. He wanted his countrymen to be honest and thoughtful and I quote:

*“Where the mind is without fear
and the head is held high,
where knowledge is free.*

*Where the world has not been broken up
into fragments by narrow domestic walls.*

*Where words come out from the depth of truth,
where tireless striving stretches its arms toward perfection.*

*Where the clear stream of reason has not lost it's way
into the dreary desert sand of dead habit.*

*Where the mind is led forward by thee
into ever widening thought and action.*

*In to that heaven of freedom, my father,
LET MY COUNTRY AWAKE!”*

In his bail application it is alleged by the applicant/ accused Chander Shekhar @ Ravan that he has been wrongly and maliciously implicated in the present case and the various provisions have been mechanically invoked without any backing of evidence on factual allegations. It is also alleged that the mandatory provisions of Sections 41 and 41 (A) of Cr.P.C. have not been complied with in terms of the guidelines and safeguards, laid down by the Hon'ble Supreme Court in the case of *Arnesh Kumar Vs. State of Bihar* reported in *2014 (8) SCC 273*. It is also pointed out that most of the provisions invoked are bailable and in so far as the provisions of Sections 148, 332 and 436 IPC read with 120-B IPC and Section 3 / 4 of PDPP Act are concerned, there is no credible evidence which can



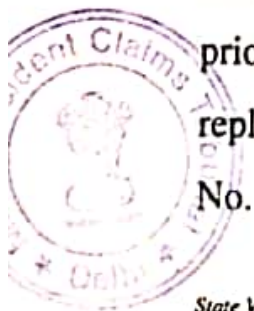
even remotely suggest that he is involved in any illegal activity. It is further pleaded that the applicant/ accused stays with his family at permanent address of Harijan Colony, Gali No.2, Chhutmalpur, PS Fatherpur, District Saharanpur, U.P. and as such there is no apprehension of absconding or evading trial. It is also submitted that accused undertakes not to tamper with the evidence and it is point out that even otherwise, the material witnesses are all police officers. He further undertakes to comply with the conditions imposed by this Court.

A detail reply has been filed by the Investigating Officer. As per the allegations on 20.12.2019 there was a protest by the public at large in view of the **Citizenship Amendment Act** and the **National Register of Citizens**. Some of the protesters were present in the area of Walled City near Jama Masjid and police personnel in large numbers were deployed in the area to maintain law and order and the applicant/ accused **Chander Shekhar Azad @ Ravan** who is the President of Bhima Army Party was also present at the spot and made a speech that was likely to incite violence. As per the allegations pursuant to this speech thousands of protesters started proceeding towards Jama Masjid area from the side of Delhi Gate. At about 6:00 PM the crowd congregated near Delhi Gate and reached outside the office of DCP, Central District and also outside Police Station Daryaganj and the protesters were shouting slogans against the central government and also planning to proceed to Jantar Mantar. Further, as per the allegations that the protesters turned violent and started **throwing stones at the police personnel** who were deployed at the



spot on which police have used a water cannon in order to disperse the crowd but the group of persons turned violent and all of a sudden burnt the car bearing No. DL-5CQ-3038. It has been alleged that several persons were detained who were a part of the unruly mob that set the above stated vehicle on fire and on the basis of these allegations, the applicant/ accused along with 15 others were arrested by the police.

As per the report of the Investigating Officer, the investigations have now been transferred to the Special Investigation Unit-I, Crime Branch, Delhi and during investigations, the recovered CCTV Footage of dated 20.12.2019, which was of poor quality, was examined and since the incident took place in late evening and therefore it is hard to identify the faces. It is reported that the media houses (both print and electronic) have been issued notices to provide the videos/ photographs of the spots covered by them which are still awaited and the CCTV cameras installed in the vicinity/ adjoining areas, where the alleged offences took place are being identified and the CCTV footage is being taken and scrutinized. According to the IO, in the drone camera footage, the applicant/ accused **Chander Shekhar @ Ravan** was clearly seen at religious place of Jama Masjid surrounded by the public in large where inflammatory speeches were made by the applicant/ accused who is the Chief Leader of Bhima Army during Friday Prayer at Jama Masjid on 20.12.2019 without prior permission from the concerned authority. It is reported that in reply to a notice, the ACP HQ, Central District Delhi Police vide diary No. 1056, dated 13.01.2020 specifically mentioned that “.....no such



request (procession or public gathering / demonstration) has been received in this (An email applied by Sh. Himanhu Valmiki was received through the office of Jt. CP/Central Range in this office and same was forwarded to ACPs/SHOs concerned for n/a vide dispatch No. 42628-33/Arrgt, Cell Dated 19.12.2019 (Copy enclosed). No permission/ NOC was sought out by the organizer, so no such permission/ NOC was issued in this regard. However on the day of march/procession i.e. 20.12.2019 organizers were briefed that any kind of march/permission shall not be allowed towards Jantar Mantar.....”.

The Investigating Officer has also placed on record the details of the previous involvements of the applicant/ accused, which are as under:

Sr. No.	Details of the case	Status	Date of Bail
1	FIR NO. 280/19, U/S 143/ 147/ 148/ 149/ 308/ 353/ 332/ 323/ 435/34/120B/427 IPC & 3, 4 PDPP ACT & 27 Arms Act, PS Govindpuri, Delhi.	Closure recommended by the Hon'ble Supreme Court vide order dated 21.10.2019 by the Bench comprising of HMJs Arun Mishra and S. Ravindra Bhat	21.10.2019 on personal bond as directed the Hon'ble Supreme Court
2	FIR NO. 52/17, U/S 147/148/149/307/353/332/336/4 27/436/323 IPC & 3,4 PDPP ACT, PS Kotwali Dehat Sahampur, UP.	Bail	08.02.2018
3	FIR NO. 156/17, U/S 147/148/149/452/307/436/427 IPC, PS Kotwali Dehat S. Pur, UP.	Bail	08.02.2018



4	FIR NO. 159/17, U/S 147/148/452/427 IPC, PS Kotwali Dehat S. Pur, UP.	Bail	08.02.2018
5	FIR NO. 160/17, U/S 147/148/435/427 IPC, PS Kotwali Dehat S. Pur, Up.	Bail	08.02.2018
6	FIR NO. 162/17, U/S 147/148/149/307/353/332/436/427 IPC & 3,4 PDPP ACT, PS Kotwali Dehat S. Pur, UP.	Bail	08.02.2018
7	FIR NO. 249/17, U/S 505 (1) C, 505 (2) B IPC & 66 F IT ACT, PS Sadar Bazar, Saharanpur, UP.	Bail	08.02.2018
8	FIR NO. 392/17, U/S 3(2) R. S. ACT, PS Kotwali Dehat, UP.	Bail	08.02.2018
9	FIR NO. 154/17, U/S 147/148/149/435 IPC, PS Kotwali Dehat, Saharanpur, UP.	Bail	08.02.2018

Ld. Addl. PP for the State has opposed the bail application of the applicant/ accused on the ground that the allegations involved are very serious & sensitive in nature involving commission of offence against the nation and not against any individual, which in itself is a heinous crime and not only shows treachery / disloyalty / betrayal and faithlessness against the nation but also proven by this act. He has argued that the investigations in the present case are at very initial stage and to reach out to a conclusion, substantial time is required. It is also argued that the applicant/ accused had sent intimation regarding the *Dharna* procession and organized the same at religious place i.e. Jama Masjid, Delhi, on receipt of which intimation the permission was declined. It is submitted that the drone camera which was engaged by the local police had recorded the video at Jama Masjid wherein it is



clearly seen that applicant/ accused made speech surrounded by the public in-large. It is also argued that the police personnel who were deployed at the Jama Masjid, performing their duties and were got examined in their statement they clearly stated that applicant Chandershekhar @ Ravan delivered inflammatory speech during Friday Prayer at Jama Masjid on 20.12.2019 pursuant to which the crowd of several thousands of people gathered at Jama Masjid marched towards Delhi Gate for Jantar Mantar, New Delhi which later turned violent and vandalized public property and caused injuries to seventeen police personnel performing duties there and three media persons during the vandalism wherein two private vehicles, official barricades and roads were destroyed/ damaged.

Ld. Addl. PP for the State has pointed out that the applicant/ accused had also tweeted the inflammatory messages, copies of which have been placed on record and also supplied to the Ld. Counsel for the accused. He has also placed his reliance upon the judgment in the cases of *Neeru Yadav Vs. State of U.P. & Anr. in Criminal Appeal No. 1272 of 2015 in SLP (Crl.) No. 1596 of 2015 decided on 29.09.2015* and in case of grant of bail, there is every apprehension that he would repeat his conduct.

On the other hand, Sh. Mehmood Pracha Ld. Counsel for the applicant/ accused has vehemently argued that in so far as the grounds relating to the incident dated 20.12.2019 is concerned, the other 15 co-accused similarly placed have already been granted bail by this Court. He has submitted that the applicant/ accused is an Advocate by profession and has only exercised his Constitutional

Right and Freedom of Speech and Expression while expressing his feelings and opinion with regard to the *Citizenship Amendment Act* and *National Register of Citizens* and had read out the preamble of the Constitution of India outside the premise of Jama Masjid at Wall City. He has submitted that the applicant/ accused did not utter a single word either against the nation or against any of the institutions or offices of the Country for whom he has the highest regard. He has further pointed out that the entire proceedings had been recorded by the Delhi Police by a drone camera and also by the officials present at the site and in case of any inflammatory speeches or words used, the said material would have brought to the Court which has not been done. He has further submitted that the accused is having a peculiar medical condition being a patient of Polycythemia for which he requires regular medical attention. It is submitted that the accused is receiving treatment for the same from the AIIMS for the last more than one and a half years with Dr. Rishi Dhawan. He submits that the accused is a permanent resident of Saharanpur but is required to come to Delhi for his treatment.

I have considered the rival contentions. At the very **Outset** it is not disputed that the applicant/ accused is an Advocate by profession who does not claim that he had any permission to hold the protest and claims that he had only read out the preamble to the Constitution of India outside the Jama Masjid Walled City, Delhi. In this regard, I may observe that for the Judges, legal persons and the Offices under the Constitution, the Constitution of India is a sacred document and if this is correct, then reading this document cannot

prima facie be taken as incitement. The preamble to the Constitution is only a brief introductory statement of the Constitution of India that sets out the guiding purpose, principles and philosophy of the Indian Constitution and it is we, the people of India who are the source of authority of the Constitution. We have declared our Country to be a Sovereign, Socialist Secular Democratic Republic and to secure to ourselves Justice - social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity and to promote amongst us all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation. While on the one hand the applicant/ accused specifically affirms that he read out the preamble, whereas on the other hand, the Investigating Agency claimed that he had made inflammatory statements, details of which have not been placed on record, so much so that there is no statement of any eye witnesses to affirm the same.

Secondly, coming to the argument that no permission was taken by the applicant/ accused while the call for protest was made. In this regard, I may observe that in our democratic set-up we have a Fundamental Right to Peaceful Protest guaranteed by the Constitution, which right cannot be curtailed by the State. However, at the same time, our constitution strikes a fine balance between the Rights and Duties. While exercising our right of peaceful protest, it is our duty to ensure that no corresponding right of another is violated and no inconvenience is caused to anyone. **Violence or destruction of property is totally unacceptable and for any kind of damage to private of public property during the protest, it is the organizers**



who would be responsible for the said damage and liable to compensate for the said loss. There has to be zero tolerance for any kind of violence and lawlessness cannot be encouraged. The nation cannot be exposed to anarchy. Of course, it goes without saying that protests do lead to inconvenience but it has to be ensured that these protests do not last for a long time at places under public use. In the present case the protest call was only for one day and the march was from Jama Masjid to Jantar Mantar. In so far as the aspect of damage is concerned, I am informed by the Ld. Addl. PP for the State that no assessment of damage whatsoever has been made till date.

Thirdly, there is no material in the form of CCTV Footage or audio recordings to prima facie show the direct involvement of the applicant/ accused with the alleged violence and it is admitted by the Investigating Agency that the CCTV footage upon which they are placing their reliance is of a very poor quality which does not even reflect the presence of other accused persons who have already been granted bail.

Fourthly, now coming to the antecedents of the applicant/ accused, I may note that applicant/ accused has nine other FIRs registered against him, as detailed herein above. The Hon'ble Supreme Court has directed a closure in FIR No. 280/2109, PS Govindpuri, Delhi and in so far as the other cases are concerned, he is on bail in all such cases since 08.02.2018 and there is no conviction,

Fifthly, coming to the provisions invoked in the present case against the applicant/ accused, they are by and large, bailable and triable by Magistrate which are detailed as under:



Sr. No.	Offence	Bailable/ Non Bailable	Punishment
1.	147 IPC	Bailable	Two years
2.	148 IPC	Bailable	Three Years
3.	149 IPC ✓	Accordingly as offences bailable or non bailable	Same as for the offence
4.	186 IPC	Bailable	Three Years
5.	323 IPC	Bailable	One Year
6.	332 IPC	Non Bailable	Three Years
7.	353 IPC	Non Bailable	Two Years
8.	427 IPC	Bailable	Two Years
9.	436 IPC	Non Bailable	Ten Years/ Life
10.	3 of Damage to Public Property Act	Non Bailable	Five Years
11.	4 of Damage to Public Property Act	Non Bailable	Not less than one year but may extend to ten years

In so far as the provisions of Section 436 IPC and Sections 3 and 4 of Damage to Public Property Act are concerned, there is no direct evidence so far to connect him with the same.

Sixthly, the applicant/ accused is in judicial custody for the last more than 25 days and is a patient of Polycythemia and is undergoing medical treatment on regular basis from Dr. Rishi Dhawan of All India Institute of Medical Sciences, New Delhi.

Seventhly, 15 other persons accused of similar violations have already been granted bail by this Court vide order dated 09.01.2020,

Lastly, I may observe that Sh. Mehmood Pracha, Ld. Counsel appearing on behalf of the applicant/ accused has submitted

that the applicant/ accused would remain bound by any conditions imposed by this Court.

This being the background, the applicant/ accused namely **Chander Shekhar Azar @ Ravan** is admitted to bail on his furnishing a personal bond to the tune of **Rs.25,000/-** with two sureties of the like amount, one of which shall be local to the satisfaction of the Ld. MM / Link MM / Duty MM, subject to the following conditions:

1. *That the applicant/ accused shall mark his presence before the SHO Police Station Fatehpur, Distt. Saharanpur, UP on every Saturday for next Four Weeks from the date of his release and thereafter on last Saturday of every month till further orders by the Ld. Trial Court.*
2. *That the applicant / accused shall not misuse the benefit of bail by indulging in commission of similar offence in future and keeping in view the pending Assembly Elections in Delhi the applicant/ accused who is neither a permanent resident nor an elector in Delhi, shall not visit Delhi for next Four Weeks and whenever the applicant/ accused is required to come to Delhi for his medical treatment, he shall inform his schedule to the DCP Crime (on the number provided by the IO to the Ld. Counsel for the accused) and SHO Police Station Fatehpur, Saharanpur who shall convey the same to DCP Crime, Delhi. During the period of his visit, the*



applicant/ accused shall be under an escort. It is clarified that this condition has been imposed only till 16.02.2020.

3. *That the applicant/ accused shall surrender his Passport, if any, with the Investigating Officer.*
4. *That the applicant / accused shall intimate to the court in case of change of his address.*

At this stage, Sh. Mehmood Pracha, Ld. Counsel for the applicant/ accused submits that after his release the applicant/ accused may be permitted to visit Jama Masjid, Jor Bagh and Guru Ravidas Temple to pay his obeisance. In this regard, it is clarified that the applicant/ accused is free to visit these places after his release within 24 hours of his release, and it shall be ensured that thereafter he is escorted to his permanent address at Harijan Colony, Gali No.2, Chhutmalpur, PS Fatherpur, District Saharanpur, U.P.

It is clarified that in case if the applicant/ accused are found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of "*Ajay Verma Vs. Government of NCT of Delhi*" WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

"..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof....."



1. When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.
2. In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.
3. Every bail order shall be marked on the file.
4. It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.
5. In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution....."

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

1. The date on which conditions imposed by this court are satisfied;
2. The date of release of prisoner from jail;
3. Date of ultimate release of prisoner in case the prisoner is in jail in some other case.



The copy of this order be sent to Ld. MM and also to the Superintendent Jail who shall also inform this court about all the three aspects as contained in the para herein above. The

Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the DCP Crime and SHO Police Station Fatehpur, District Saharanpur, U.P. to ensure compliance.

On request, one copy of this order be given *dasti* to the Ld. Counsels for the accused and one copy be given to the IO for purposes of compliance.

The bail application is accordingly disposed off.



Announced in the open court
Dated: 15.01.2020

Sd/-
(Dr. KAMINI LAU)
Judge, MACT-01, Central District,
Tis Hazari Courts, Delhi

Live
Law.in
ABOUT LAW

Attested
copy

[Signature]
15/1/2020
(Branch kalyan)
B & F TMC
Delhi