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State Vs. Mohd. Danish and Mohd. Ilyas and Parvez Alam
FIR No. 59/2020
U/s 147/148/149/120-B IPC.
PS Crime Branch

13.03.2020

This is an application seeking 06 days PC remand of the accused Mohd. Danish and another application for grant of bail u/s 437 CrPC, moved on behalf of the applicant/accused persons namely Mohd. Danish and Mohd. Ilyas and Parvez Alam

Present : Sh. Bhanu Pratap, Ld. APP for the State.
Accused Mohd. Danish produced after 04 days PC remand.
IO Inspr. Lokesh Kumar Sharma in person with case file.
Sh. Rizwan Ahmad, Ld. Counsel for accused persons.
Sh.S.M. Bhardwaj, LD. Counsel for the accused.
IO/SI Pooja, No. D5649, PS Naraina in person.

It is stated in the application for grant of PC remand that on 06.03.2020, specific information was received in the Crime Branch that the communal riot incidents of February 23-25, 2020 in Delhi were preplanned and the same were hatched by one Umar Khalid, a student of Jawahar Lal University (JNU) and his assistances, all linked with different different groups. As per preplanned conspiracy, the above Umar Khalid gave provoking speeches at various places and appealed the minority gathering to block roads and other public places during the visit of Mr. Donal Trump, Hon'ble President of USA on February 24/25, 2020, so that a propaganda may be flashed at international platform that the Minorities in India are being tortured. To achieve this objective, fire arms, acid bottles and other dangerous articles etc were used and as a pre-planned conspiracy ladies and children were sent to block Jafarabad Metro Station to create riot etc. On the basis of technical and manual evidence collected during investigation, accused Mohd. Danish was arrested and he is found to be an active member of Popular Front of India (PFI) since 2018 and involved in the conspiracy of above communal riots in Delhi. During four days PC remand



two more accused persons have been arrested and mobile phones have been recovered and now police remand is required because accused was involved in conspiracy of communal riots which resulted in death of 50 innocent people and injuries to approximately 300 persons and huge loss of government and public properties and therefore, to unearth complete conspiracy and to identify the other persons who were involved in the funding used by PFI to carry out the riots and for verification and confrontation of bank details, PC remand of the accused is required.

On the other hand, Ld. Counsel for accused Mohd. Danish has moved application for bail of accused Danish as well as bail of two more accused persons namely Mohd. Ilyas and Parvez Alam (who are stated to be in police custody) on the ground that accused persons were taken into custody by concealment of the fact that the offences involved are in bailable in nature and this court by oversight granted police custody which is bad in law and against the right of life provided under law. Ld. Counsel for accused persons has also argued that the copy of FIR was not served to the accused persons or their counsels earlier, therefore as soon as copy was supplied, it came into the notice of Ld. Counsel for the accused persons that offences are bailable in nature and bail is a fundamental right of the accused in bailable offences. Ld. Counsel for accused persons has relied upon the judgments in case titled as "*Rasiklal Vs. Kisore Wadhvani*" (2009) 2 SCC (cri) 338 and *Pravinkumar Chandrakant Vyas Vs. State of Gujarat & Ors*, (2001) 3 GLR 2755.

Per contra, Ld. APP for the State as well as the IO have opposed the instant application on the ground that allegations against accused persons are of serious nature.

Arguments heard. Record perused.

The offences which are invoked in the FIR are punishable under Section "147/148/149/120-B IPC". The offences punishable under Section 147/148 IPC are bailable and consequently the offences punishable u/s 149/120B IPC become bailable in nature. It is settled principle that in bailable offences, it is the duty of the IO to offer bail to the accused persons at first instance. There is no explanation by the IO why he has not offered bail to the accused persons at first instance as per constitutional as well as



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procedural mandate and therefore, let a written explanation be called from IO concerned with respect to his failure to offer bail to the accused persons in bailable offences as per constitutional and procedural mandate, returnable on **17.03.2020 before court concerned.**

Considering the fact that offences invoked in the FIR are bailable in nature and in the application for grant of six days PC remand, IO has nowhere mentioned that any of non bailable offences has been disclosed or has come out during investigation till now, therefore, accused Mohd. Danish, Mohd. Ilyas and Parvez Alam be enlarged on bail on furnishing personal bond and surety bond in the sum of Rs.30,000/- each with conditions that :-

1. Accused persons shall cooperate with IO during investigation as and when required by IO.
2. Accused persons shall not leave country without permission of the Court.
3. Accused persons shall not contact or communicate with the complainant/victims.
4. Accused persons shall not temper with the evidence nor will contact any witness.


Accordingly, bail application of accused persons is allowed.

The application of IO for grant of six days PC remand stands dismissed.

Bail bond and surety bonds furnished on behalf of accused Mohd. Danish and Parvez Alam, considered and accepted till verification of the addresses of sureties. IO concerned is directed to verify the addresses of sureties by 17.03.2020. Meanwhile, accused Danish and Parvez Alam be released immediately, if not required in any other case.

As far as accused Mohd. Ilyas is concerned, accused Mohd. Ilyas is stated to be on police custody, therefore, he be released by IO concerned as soon as he furnished personal and surety bond in terms of this bail order to the satisfaction of IO concerned.

Copy of this order be given *dasti*.


(Prabh Deep Kaur)
LMM (Mahila Court-02)

PHC ND/13/03.2020
Metropolitan Magistrate
महिला न्यायालय, नई दिल्ली

