

IN THE COURT OF SH. AMITABH RAWAT, ADDITIONAL SESSIONS
JUDGE-03 SHAHDARA DISTRICT, KARKARDOOMA COURT, DELHI

Bail Application No. 1394-2020

FIR No. 50/2020

PS- Jafrabad

U/S. 147/148/149/186/302/353/283/332/323/307/427/109/188/120B/34 IPC r/w
Section 25/27 Arms Act & Section 3/4 PDPP Act
State Vs. Natasha Narwal

17.09.2020

In view of the office order no. 4078-4097/Judl./SHD/2020 dated 29.08.2020 of the Ld. District & Session Judge, Shahdara District, Karkardooma Courts, Delhi issued in the wake of Corona Virus (Covid-19) pandemic, the present application has been put up before the undersigned.

Present : Sh. Rajeev Krishan Sharma, Ld. Special Public Prosecutor for State (through Webex app).

Accused Natasha Narwal is being produced from Tihar Jail No.6 through WebEx (in another case FIR No. 59/20, P.S. Crime Branch (Investigated by Special Cell)).

Sh. Adit S. Pujari & Ms. Tusharika Mattoo, Ld. Counsels for accused Natasha Narwal are present in the court alongwith Sh. Kunal Negi, Ld. Counsel through webex app.

ORDER

1. Vide this order, I shall dispose off second application under Section 439 Cr.P.C moved on behalf of accused Natasha Narwal for grant of bail.

2. Arguments were heard at length on behalf of accused by Sh. Adit S. Pujari, Ld. counsel for accused and for prosecution by Sh. Rajeev Krishan Sharma, Ld. Special PP for the State.



3. I have gone through the application, reply of IO, and the charge-sheet.

4. **CASE OF THE ACCUSED**

(a) It was submitted by the Ld. Counsel for the accused that this is the first application for regular bail after the filing of the charge-sheet. The accused was arrested on 24.05.2020.

(b) It was further submitted that accused is a peace loving citizen and has roots in society.

(c) It was further submitted that charge-sheet has already been filed qua the accused on 19.08.2020.

(d) There is no nexus between the unfortunate death of Amaan, the subject matter of the FIR with the acts alleged against the accused. There is no photo or video to indicate, applicant being part of the violent mob.

(e) Applicant is already being investigated for the alleged larger conspiracy behind the Delhi Riots in FIR No. 59/20.

(f) The applicant satisfies the Triple Test Formula as laid down in P. Chidambaram vs. E.D (Crl. Appeal No. 1831/2019) dated 04.12.2019 as accused is neither a flight risk nor she can tamper with evidence or influence any witnesses, who are police officials.



(g) It was further submitted that bail is the rule and detention is an exception. Reliance was also placed on Sanjay Chandra vs. CBI, (2012) 1 SCC 40.

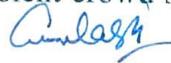
(h) It was further submitted that the co-accused Devangana Kalita has been enlarged on bail by the order of Hon'ble High Court of Delhi in the present FIR vide order dated 01.09.2020 in Bail Application No. 2038/20.

(i) It was prayed that accused be enlarged on bail.

5. CASE OF THE PROSECUTION

(a) Ld. Special Prosecutor had vehemently opposed the bail application of accused stating, in the reply, that in the north east District of Delhi, there were malafide violent protest against CAA, NRC & NPR by the organised mob. Due to aggression of mob on 24.02.2020, Order of under Section 144 Cr.P.C was issued to maintain the law and orders & to prevent any unlawful incident. On 25.02.2020 several protesters/rioters gathered with common intent to cause rioting at different places in the area of P.S. Jafraabad and various other places of North East District.

(b) Several information regarding stone pelting, firing, Acid attack and setting fires were regularly being received. On these information, SHO P.S. Jafraabad along with his staff & outside force i.e CRPF was present at the main road 66 foota near Crescent Public School to contain the violent mob and restore peace. The violent crowd was bent upon to proceed towards Maujpur, where already another mob of another community was present. The violent crowd had blocked the 66 Foota road, near Metro Station Jafraabad. The police personnel tried their best to stop the violent mob and the protesters. On this, violent crowd started heavy pelt-



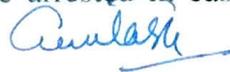
ing stone & firing on the police personnel. That in self defence & to save the public at large, life & property, the police personnel had no option but to resort to firing as lot of police personnel were seriously injured by these violent mob & rioters That in self defence police had to fire in the air or on lower part of body of the rioters. In this riot, one injured namely Aaman died on 25.02.2020 due to the gunshot injury caused by the rioters. Thus, the present case was registered

(c) It was further stated that the accused is a named accused in FIR No. 48/20, P.S. Jafrabad, Delhi along with her associates namely Kumari Gulfisha @ Gul and Devangana Kalita Subhasini @ Suhasani, Paroma Roy, Rumsha, Suhail, Adnanas, Taslim, Shadab, Guddu Choudhary, Faizan and Kasim Ansari

(d) It was submitted that during investigation of the present case, one rioter/accused Sharukh Khan was arrested and he disclosed that the rioters were instigated by many persons including Natasha (the present applicant), for causing riots and also pelting stones and firing on police.

(e) During investigation of the FIR No. 48/20, P.S. Jafrbad, Delhi accused persons namely Gul @ Gulfisha, Sadab Khurshid Taslim and Suhail were arrested on 09.04.2020. they have categorically named the present applicant in their disclosure statement for causing protest and instigating riots at 66 Foota Road, Jafrabad Metro Station, Delhi.

(f) That on 23.05.2020, the present applicant along with her associate and roommate namely Devangana Kalita were arrested in case FIR No. 48/20, P.S.



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Jafrabad, Delhi and in her disclosure statement she admitted her involvement in the present case also.

(g) That on 24.05.2020, the present applicant alongwith her associate and roommate Devangana Kalita were arrested in the present case after taking permission from the Duty MM. After that two days PC remand was granted. On 26.05.2020, two days further PC remand of the applicant and her associate was taken On 28 05.2020 the applicant and her associate Devangana Kalita were sent to Judicial Custody till 11.06 2020.

(h) The applicant is also in custody in FIR No. 59/2020 P.S. Crime Branch dated 06.03.2020, which is registered under sections 124 A/302/307/353/186 / 212/395/ 427/435/ 436/452/454/109/114/147/148/149/153A/34 IPC & 25/27 Arms Act & UAP Act. Thus, apart from the instant matter, the applicant is also involved in other heinous and grievous crimes which are not limited to offences against the Public Tranquility, offences against the contempt of lawful authority of public servants, offences relating to religion offences affecting the Human Body but also includes crime against the nation which includes offences under the Unlawful Activities (Prevention) Act.

(i) The present applicant is the main and lead conspirator and instigator of the present incident. She was physically present at the spot i.e. road block site/protest at 66 Foota Road, under Jafrabad Metro Station, Delhi since beginning i.e. from 22.02.2020 till late evening on 24.02.2020. This road block later spiraled into a huge communal riot.

Amalika

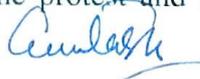
(j) During that period she regularly instigated the local protestors and rioters against CAA & NRC and also instigated them to be violent and use stone, lathi, fire arm on police & other community if they try to stop them to proceed towards other community area. She was regularly in touch with other conspirators and rioters of different protest and riot sites.

(k) The present applicant along with her associate were in continuous process to poison the mind set of common people by giving speeches that this act is anti Muslims and they were be forced to show their address proof and documents and later on Muslim people will be thrown out of the country. The applicant was able to create faith in the common public by saying that they are Phd Scholar of JNU and know the law and activity of the Govt. so this is right time to save yourself and come out for strong protest.

(l) The present applicant and her associate had opened their office near the protest site at Old Bus Stand, Seelampur, Delhi with their core group for meetings and further steps for their protest and riots. The meeting was also attended by several persons including Umar Khalid, Matin Ahmed, Mehmood Pracha, Amannatullah Khan and others.

(m) The physical presence of the present applicant has been established in the statement of eyewitnesses and also as per CDR of her mobile phone at the spot of the present case during entire period of the protest and riot till 24.02.2020.

(n) As per her disclosure statement, several protest sites were physically identified and visited. The video clips of the protest and the road blocked have



been obtained in which the present applicant is seen instigating the common Muslim ladies against CAA & NRC.

(o) The eyewitnesses i.e. public witness and police officials of the different protest sites recorded under Section 161 & 164 Cr.P.C have shown the role of the present applicant.

It was prayed that bail application of the accused Natasha Narwal be dismissed.

Ld. Special Prosecutor has also relied upon a judgment of Hon'ble Supreme Court of India passed in The State of Orissa v. Mahimananda Mishra, on 18.09.2018, Criminal Appeal No. 1175 of 2018.

6. (a) In the present case, the accused Natasha Narwal is in custody since 24.05.2020.

(b) She is stated to be a part of the unlawful assembly which committed riots and leading to death of Amaan in the present FIR. The co-accused Devangana Kalita has already been enlarged on bail by the orders of Hon'ble High Court of Delhi and her role is stated to be similar to the present applicant/accused. Ld. Special Prosecutor had submitted that there was certain errors in the said order and for which they have approached the Hon'ble Supreme Court of India and the matter will be listed in due course. In any case, this issue of error, as alleged, in the order of the Hon'ble High Court of Delhi, is not to be agitated here. The order dated 01.09.2020 of Hon'ble High Court of Delhi granting bail to co-accused Devangana Kalita still stands.

(c) Moreover, certain videos were shown in the court by the IO and Ld.

Special Prosecutor but the said videos show her being a part of unlawful assembly but do not show the accused indulging or inciting the violence. I am mindful that there are statements under Section 161 Cr.P.C & 164 Cr.P.C against the accused Natasha Narwal regarding incitement.

(d) Prosecution can't say that till witnesses are examined, accused can't be released on bail. There is no specific allegation of threat to witnesses, who are, in any case, protected and their identity concealed.

(e) Also, if proceedings under Section 82 Cr.P.C against other co-accused has begun, than that, by itself, can't disentitle the present accused to bail.

(f) To add to it, the court is conscious of another FIR No. 59/20, P.S Crime Branch, Delhi (Investigated by Special Cell) in which the present applicant is an accused, however, that case is under specific legislation and investigated separately and thus will be dealt with accordingly.

(g) At this stage, only bail is to be considered and not acquittal or conviction.

(h) Moreover, she is not a flight risk and the witnesses are police officials only or protected witnesses.

7. Considering the period of incarceration, the grant of bail to co-accused Devangana Kalita by Hon'ble High Court of Delhi and in the facts and circumstances of the case, the present bail application under Section 439 Cr.P.C of accused is allowed and accused Natasha Narwal is admitted to bail on furnishing personal bond in the sum of Rs. 30,000/- with one surety to the like amount subject to the satisfaction of Ld. MM/Link MM/Ld. Duty MM.

The applicant/accused shall not get in touch with any of the witnesses nor

will tamper with the evidence and shall not leave the NCT of Delhi without permission of court till the conclusion of the case. She shall attend the court on all dates.

Application is accordingly disposed off.

8. Copy of the order-sheet be also mailed to all the parties i.e. counsel for applicant/accused, Ld. Prosecutor and IO.


(AMITABH RAWAT)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 17.09.2020