

# Ravi Kumar @ Shooter vs State (Nct Of Delhi) on 21 January, 2021

**Author: Anup Jairam Bhambhani**

**Bench: Anup Jairam Bhambhani**

via Video-conferencing

\$~SB-1

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPL. 2470/2020

RAVI KUMAR @ SHOOTER ..... Applicant  
Through: Mr. Prashant Mendiratta, Advocate.

versus

STATE (NCT OF DELHI) ..... Respondent  
Through: Ms. Neelam Sharma, APP for the  
State alongwith Mr. Rajan Bhagat,  
DCP (SCRB), Inspector Shivaji and  
S.I. Sandeep from P.S.: Ambedkar  
Nagar.

CORAM:  
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI  
ORDER

% 21.01.2021 In compliance of last order dated 13.01.2021, status report/ action taken report is stated to have been filed by the State/Delhi Police. However the same is not on record. A copy has been forwarded via e-mail by Ms. Neelam Sharma, learned APP for the State; which is taken on record; and has been perused. Let the copy filed in the Registry be brought on record for completeness of the record.

2. Vidé judgment dated 16.12.2020 made in this matter and arising from discrepancies noticed in the previous involvement report/ conviction report/SCRB report relating to the applicant filed by the Investigating Officer, certain directions were issued and steps were laid-down for Investigating Officers to follow before they produced such reports before any court. By way of the status report the Delhi Police have confirmed compliance of the directions issued vidé judgment dated 16.12.2020 in relation to preparation of previous involvement report/conviction report/SCRB report by Investigating Officers before such reports are filed before the Delhi High Court or any court subordinate to it.

3. A copy of Standard Operating Procedures (SOPs) dated 19.01.2021 incorporating the directions issued by this court vidé judgment dated 16.12.2020 has also been enclosed with the status report.

While some small discrepancies are noticed in the SOPs dated 19.01.2021, such as an incorrect Bail Application number having been mentioned therein, the same are pointed-out to learned APP; who has assured that she would re-check the SOPs for such inaccuracies and have requisite corrections made.

4. Applicant's counsel Mr. Prashant Mendiratta had made detailed submissions on the merits of the bail plea on earlier dates of hearing, which were also recorded in judgment dated 16.12.2020. Ms. Neelam Sharma, learned APP for the State had also been heard at length in relation to the bail application. For sake of completeness however, it would be proper to recount the submissions made on behalf of the parties in this order.

5. Mr. Mendiratta's submissions are as follows :

(i) There are 03 accused persons in the matter, by name Raman, Aman @ Kala and Ravi Kumar i.e. the present applicant, who are accused of allegedly having murdered a person also called Aman (deceased), which led to the registration of FIR under sections 324/307/302/34 IPC and 25/27/54/59 of Arms Act.

(ii) Though the applicant is alleged to have stabbed the deceased on the thigh on 18.09.2016, the record will show that the deceased remained admitted at the AIIMS Trauma Centre for some 07 (seven) days; whereupon, he is alleged to have died on 24.09.2016 due to cardio-

pulmonary arrest.

(iii) As recorded in the status report filed by the State, the alleged weapon of offence i.e. a blood stained button-operated knife is stated to have been recovered from the house of co-accused Raman and not from the applicant.

(iv) In their deposition before the learned trial court on 23.10.2018, the prosecution's prime witnesses namely PW-1: Suraj, who is the father of the deceased as well as PW-2: Vishal, who is stated to be the complainant and eye-witness have both turned hostile.

(v) Both co-accused, Raman as well as Aman @ Kala have been admitted to regular bail vide orders dated 05.12.2018 and 23.03.2019 respectively, whereas the applicant continues to languish in jail.

(vi) The contents of the MLC show that the deceased was brought to the Jai Prakash Narayan Apex Trauma Centre (JPNATC) AIIMS by one Atul; that he was unconscious at that time; and could not therefore have told Atul anything. The MLC further records that when he brought the deceased to the hospital, Atul only narrated the alleged history as : "ASSAULT STAB INJURY AT DAKSHINPURI DELHI AT 8:00 P.M. AT NIGHT BY UNKNOWN PERSON AND BROUGHT TO JPNATC AIIMS ED BY RELATIVES." (emphasis supplied); and did not name the present applicant at that time. The attending doctor also recorded that the deceased was not fit for statement.

6. Ms. Sharma, learned APP has submitted as follows :

(i) The 02 co-accused persons who are presently on bail, are alleged to have only caught hold of the deceased, whereas it is the applicant who is alleged to have actually stabbed the deceased on the thigh leading to rupture of the femoral vessel, which eventually led to his death.

Accordingly it is the applicant who had the primary role in causing the death.

(ii) In their statements recorded under section 161 Cr.P.C., both PW-1 and PW-2 had very clearly enunciated the applicant's role in the offence but have turned hostile during trial, which raises serious suspicion inter alia upon the applicant. In any case the issue of hostility of the said two witnesses remains to be dealt-with by the learned trial court.

(iii) At the earlier hearings it was submitted that the third prime witness PW-4: Atul, who is the last crucial public witness, is yet to be examined and his deposition is (was) scheduled on 09.03.2021. It was submitted that since, according to the State, even the father of the deceased has been 'won-over' by the accused persons, the prosecution was apprehensive that Atul may also come under threat from the accused persons and would also not stand his ground in the course of deposition before the learned trial court.

(iv) As disclosed in SCRB record dated 03.10.2020 filed alongwith the status report, the applicant has been involved in 02 other offences namely FIR No. 342/2013 under section 326 IPC and FIR No.195/2014 under sections 307/34 IPC; and even though he is said to have been acquitted in the said 02 cases, it shows that he is a repeat offender.

(v) Attention was also drawn to nominal roll dated 03.10.2020, which shows that the applicant's overall jail conduct has been 'unsatisfactory' since he was awarded a punishment for demanding money and threatening other inmates on 18.07.2018.

7. In the context of witness Atul's deposition being scheduled on 09.03.2021, Mr. Mendiratta and Ms. Sharma had jointly made a suggestion that before deciding the present bail application, this court may advance the date of hearing before the learned trial court for recording Atul's deposition; and direct that such deposition be recorded in a time-bound manner; and this bail plea be decided once Atul's deposition is complete. As jointly prayed, such directions were issued.

8. On 13.01.2021 this court was informed that witness Atul had deposed as PW-4; that his examination-in-chief and cross- examination were concluded and he was discharged as witness on 07.01.2021.

9. A copy of PW-4: Atul's deposition was also filed on record vidé Index dated 08.01.2021, from a perusal of which it would appear that the said witness had also not supported the prosecution's case against the applicant; and had been treated by the learned APP appearing before the learned trial court as 'hostile' and was subsequently cross- examined on behalf of the State.

10. Considering that trial is still pending, this court refrains from making any further comments in relation to PW-4's deposition since it would be for the learned trial court to decide whether PW-4 had turned 'hostile', and if so, whether to rely or not to rely on PW-4's deposition or any part thereof.

11. Leaving the learned trial court to decide the merits of the evidence presented before it in all its aspects and facets; and only for the limited purpose of deciding the present bail plea, it is noticed that the crucial witnesses viz. PW-1: Suraj (father of the deceased), PW-2:

Vishal (complainant and eye-witness, who is stated to have accompanied the deceased to hospital) and PW-4: Atul, have all not supported the prosecution story that it was the applicant who wielded the knife; and further that the blood stained button-operated knife is also stated to have been recovered from co-accused Raman and not from the applicant; and also that both the other co-accused, namely Raman and Aman @ Kala, have been granted regular bail, this court is persuaded to accept the present bail application.

12. Accordingly, the applicant is admitted to bail during the pendency of the trial, subject to the following conditions :

(i) The applicant shall furnish a personal bond in the sum of Rs.50,000/- with 01 surety in the like amount from a family member, to the satisfaction of the learned trial court;

(ii) The applicant shall furnish to the Investigating Officer/ S.H.O a cellphone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

(iii) If the applicant has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;

(iv) The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case;

(v) The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

13. Nothing in this order shall be construed as an expression on the merits of the pending trial.

14. The bail application stands disposed of.

15. Other pending applications, if any, also stand disposed of.

16. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 21, 2021/Ne