

## Kasim vs State Of Nct Of Delhi on 17 May, 2021

**Author: Manoj Kumar Ohri**

**Bench: Manoj Kumar Ohri**

\$~10

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ BAIL APPLN.1363/2021  
KASIM

..... Petitioner

Through:

Mr. Salim Malik, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through:

Mr. Amit Mahajan, SPP, Mr. Rajat Nair, SPP for State along with Mr. Dhruv Pande and Mr. Shantanu Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

% 17.05.2021

1. The present bail application has been filed under Section 439 read with Section 482 Cr.P.C. on behalf of the petitioner seeking regular bail in FIR No. 53/2020 registered under Sections 144/147/148/149/186/188/201/302/336/332/353/120B/34 IPC read with Section 27 of the Arms Act and Section 3 of the Prevention of Damage to Public Property Act at Police Station Jyoti Nagar, Delhi.

2. Mr. Salim Malik, learned counsel for the petitioner submits that in the present case, the charge sheet has already been filed and the petitioner is no longer required for the purpose of investigation. He further submits that the co-accused persons, namely, Imran and Anwar, who were assigned similar roles, have already been released on regular bail by the Sessions Court vide orders dated 29.10.2020 and 11.11.2020 respectively. Learned counsel for the petitioner, while referring to the charge sheet, further submits that initially, the present FIR was registered on the statement of the complainant under Section 304 IPC, which was later on converted to Section 302 IPC. He further submits that even as per the prosecution case, the petitioner is only shown to be present at the spot and no specific allegation has been levelled against him. It is further submitted that the petitioner used to work as a beldar and was going to his house at 12 noon. Lastly, it is submitted that the petitioner is in custody since 20.03.2020 and thus, no purpose would be served by confining the petitioner in jail till such time and prays for grant of regular bail to the petitioner.

3. Mr. Rajat Nair, learned SPP for the State, on the other hand, has vehemently opposed the bail application. He submits that the petitioner's involvement was witnessed by three witnesses, namely, Ct. Monu, HC Rewati Prasad and a public witness, namely, Afsar who have mentioned that the

petitioner was part of the mob which was involved in the incident. Learned SPP has further pointed out that the petitioner was seen walking with a danda/PVC pipe. The petitioner has also refused TIP. It is further submitted that the petitioner is also involved in two more cases, bearing FIR No. 84/2020 registered under Sections 147/148/149/427/436 IPC and FIR No. 54/2020 registered under Sections 302/147/148/149/120B/34 IPC at P.S. Jyoti Nagar.

4. Learned counsel for the petitioner, in rejoinder arguments submits that the petitioner has already been released on bail in the aforesaid FIRs and the orders granting bail to the petitioner have not been challenged by the State till date. He further submits that the danda/PVC pipe alleged to be held by the petitioner in his hand has not been recovered by the Police till date.

5. The present FIR came to be registered on the complaint of Mohd. Imran i.e., the brother of the deceased- Mohd. Furkan who is stated to have died of gunshot injury. It relates to an incident dated 24.02.2020 which allegedly involved a crowd of rioters who were pelting stones and firing at the place of the incident i.e., Kardam Puri Pulia, resulting in the death of the deceased. The petitioner is stated to be a part of the mob as he is seen in the video recording procured from the CCTV cameras installed at the place of the incident and further, has been named by three witnesses including one public witness. While statement of Ct. Monu & HC Rewati prasad was recorded on 12.03.2020, the statement of public witness, Afsar was recorded on 24.06.2020. Although the petitioner is alleged to be holding a danda/PVC pipe but the same is not recovered.

6. Keeping in view the aforesaid facts and circumstances; the fact that the petitioner is in custody since 20.03.2020 and that charge sheet has already been filed, the petitioner is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/Duty M.M. and subject to the following further conditions:-

(i) The petitioner shall not leave the NCT of Delhi without prior permission of the concerned Court.

(ii) The petitioner shall remain available on mobile number:

8587845541, which he undertakes to keep operational at all times during the pendency of the trial.

(iii) In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to the concerned Court.

(iv) The petitioner shall regularly appear before the concerned Court during the pendency of the trial.

(v) The petitioner shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.

7. The application stands disposed of in the above terms.
8. A copy of this order be communicated electronically to the concerned Jail Superintendent for information.
9. A copy of this order be immediately uploaded on the website.
10. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case.

MANOJ KUMAR OHRI, J MAY 17, 2021 'dc' [Click here to check corrigendum, if any](#)