

State Of Nct Of Delhi vs Deepak Dabas on 7 July, 2020

Equivalent citations: AIRONLINE 2020 DEL 932

Author: Suresh Kumar Kait

Bench: Suresh Kumar Kait

\$~11

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.07.2020

+ CRL.M.C. 1499/2020 & CrI.M.A. 7372/2020

STATE OF NCT OF DELHI

..... Petitioner

Through

Mr.Amit Chadha, APP for State with
Ms.Jyoti Babbar, Adv. for Mr.Rajesh
Mahajan, ASC.

versus

DEEPAK DABAS

..... Respondent

Through

Mr.Kirti Uppal, Sr. Adv. with
Mr.Shivek Trehan, Mr.Pranay Mohan
Govil, Ms.Geeta Sharma & Mr.Rahul
Chaudhary, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

The hearing has been conducted through video conferencing.

1. Present petition has been filed under section 482 read with section 439(2) Cr.P.C. seeking quashing of order dated 12.05.2020 and cancellation of interim bail granted to the respondent by Sh.Devender Nain, learned Duty Judge/ASJ-05(N-W), Rohini Courts, Delhi.

2. Mr.Kirti Uppal, learned senior counsel appearing on behalf of the respondent submits that respondent's arrest in FIR No.09/2020 on 13.05.2020 comes close on the heels of an order dated 12.05.2020 passed by Shri Devender Nain, Ld. ASJ, Rohini, whereby respondent/accused had been granted interim bail in 9 cases where he was in judicial custody upto that point in time. Prior to the said order dated 12.05.2020, there was no whisper of the respondent's alleged involvement in FIR No.09/2020.

3. Learned senior counsel further submits that the sequence of events leading up to the respondent's arrest in FIR mentioned above leaves no manner of doubt that the arrest itself was arbitrary, illegal and carried out with an intent to defeat and circumvent the earlier order dated 12.05.2020. Prior to his arrest in FIR No.09/2020, the respondent was already in judicial custody in the following 9

cases:

S. No.	FIR No.	Offences	Regd. On	Police Station
1.	110/2012	392/365/34 IPC	10.06.2012	South Rohini
2.	791/2015	307/308/457/506/323/34 IPC 25/59/27/54 Arms Act.	21.11.2015	Kanjhawala
3.	102/2016	302/34 IPC 25/27/54/59 Arms Act.	29.01.2016	Begumpur
4.	217/2016	186/353/307/34 25/27/54/59 Arms Act.	IPC 29.02.2016	Begumpur
5.	463/2016	307/392/397/34 IPC 25/27 Arms Act.	20.06.2016	Vijay Vihar
6.	69/2019	302 IPC 25/27 Arms Act.	01.03.2019	Begumpur
7.	415/2019	387/506 IPC	15.10.2019	Kanjhawala
8.	76/2020	387/506 IPC	31.01.2020	Aman Vihar
9.	67/2020	302 IPC 25/27/54/59 Arms Act.	20.02.2020	kanjhawala

4. Mr.Uppal further submits that even before his arrest in the abovesaid cases, the respondent had been wanting to get married to his fiancée- one Ms. Priyanka Siwas, who is a practicing advocate enrolled with the Bar Council of Delhi since 2018. As such, the respondent moved applications under Section 439 Cr.P.C. in the abovesaid 9 cases seeking interim bail on the ground that he was desirous of getting married. All 9 applications were heard together before the same court and as and when the said 9 applications came up for hearing, the investigating officers in each of the said cases filed their respective replies/status reports between 11.05.2020 and 12.05.2020. Status reports would reveal that there is no mention of the Respondent's alleged involvement in any case other than the 9 cases in which the bail applications were being considered at that point in time.

5. In addition to above, on 13.05.2020, even before the Respondent could be released from judicial custody in light of the order dated 12.05.2020, the Respondent was abruptly placed under formal arrest in a previously unknownst case - FIR No.09/2020 dated 08.01.2020 registered at PS Kanjhawala. He submits that out of the 9 applications under consideration in order dated 12.05.2020, 3 cases - i.e. FIR No.791/2015, FIR No.415/2019 and FIR No.67/2020 are registered at PS Kanjhawala. Despite these 3 cases being of PS Kanjhawala, none of the replies and/or status reports filed by the police officials of PS Kanjhawala on 12.05.2020 mentioned that the respondent is allegedly involved in commission of offences being investigated in another case - i.e. FIR No.09/2020 and that his custody is required in such case.

6. While concluding his arguments, Mr.Uppal submits that after having considered the Replies/Status Reports filed in each of the 9 cases and after having heard detailed arguments, the Ld. ASJ granted interim bail vide order dated 12.05.2020 and directed that the Respondent be released for a period of 45 days for the purpose of his marriage.

7. On the other hand, case of the petitioner/State is that Respondent/accused is a dreaded criminal, who is involved in as many as 23 cases. Out of these cases, three were of murder punishable u/s 302 IPC, further three cases involving offence of attempt to murder punishable u/s 307 IPC, while some of the other cases involved other heinous offences such as robbery with use of weapon, extortion, kidnapping etc.

8. Mr. Chadha, learned APP submits that since the functioning of the Courts are restricted and limited to video conferencing due to lockdown, Respondent/accused herein applied for interim bail for a period of 45 days in total of nine cases i.e. i) FIR 217/16 PS Begumpur, ii) FIR 76/20 PS Aman Vihar, iii) FIR 463/20 PS Vijay Vihar, iv) FIR. 102/16 PS Begumpur, v) FIR 69/19 PS Begumpur, vi) FIR 67/20 PS Kanjhawala, vii) FIR 110/12 PS South Rohini, viii) FIR 415/19 PS Kanjhawala and ix) FIR 791/15 PS Kanjhawala.

9. Learned APP submits that brief facts with regard to each of the cases in which respondent has been granted bail by way of impugned order are as follows:

"a) FIR 217/16 PS Begum Pur u/s 186/353/307/34 IPC:

On 29.02.2016, a secret information was received by SI Sapan Kumar D-5060 PS-Kanjhawala that one Deepak, who was wanted in many heinous cases of PS-Kanjhawala and outer Delhi was to come his associates at Sec-24, Rohini to commit some crime, and if raid was conducted, they could be arrested. On receipt of above information, SI Sapan Kumar constituted a raiding team comprising of Insp. Dharamvir Singh, SI Devender, HC Begraj, Ct Vinod, Ct Sunil, Ct Paramjeet, Ct Bisan, Ct Ved Prakash, Ct Raj Karan and Ct Manoj in the supervision of ACP, Begumpur and a trap was laid at near Mother Dairy, Pocket-20, Sec-24, Rohini, Delhi. At about 5pm, one Swift Car bearing No-DL-8C AH-2973 came there and stopped. At the same time, one motor cycle bearing No-HR-79 8066 also came there and stopped near the said car. Thereafter, accused Deepak Dabas @ Teetar, his associates namely Ashish @ Deva boarded the said Swift car and tried to run away, but raiding team members blocked the road and tried to apprehended the accused persons on which they started firing at the police party. After gun fight, accused Deepak @ Teetar along with his associates namely Ashish @ Deva, Pradeep and Sunil were apprehended by the police team. During personal search one pistol , 5 country made pistols and 6 live cartridges were recovered from the possession of accused Deepak @ Teetar, one pistol was recovered from the possession of accused Ashish @ Deva and one country made pistol was also recovered from the possession of accused person Pradeep. Thereafter, the sketches of recovered fire arms and live cartridges were prepared and the recovered weapons were sealed as per seizure memo.

Subsequently, a case FIR No-217/16 dated-29.2.2016 u/s- 183/353/332/307/34 IPC & 25- 27Arms Act was registered in Police Station, Begumpur. That during the investigation, accused Deepak Dabas @ Teetar along with his associates namely Ashish @ Deva, Pradeep & Sunil were arrested in the present case and after completion of investigation, charge-sheet was filed and the case is pending trial before the court of ld. ASJ, Rohini Court, Delhi.

b) FIR 76/2020 PS Aman Vihar u/s 387/506 IPC:

That on 20.01.2020, a Whatsapp call from mobile (Airtel) bearing number 9650760709 was received by one Sunny Suri s/o Trilok Suri R/o C-2/27 Rama Vihar, Delhi on his mobile (Airtel) bearing number 9650378872, wherein the caller demanded Rs. 5 lakhs from the receiver, and threatened him with dire consequences, if the demanded money was not paid by him. The receiver identified the caller as Deepak @ Tittar S/o Rajbir Singh R/o Village Majra Dabas Delhi as the caller was well known to him. On 27.01.20, Sunny Suri filed written complaint with PS Aman Vihar, upon which a case vide FIR No. 76/20 dated 31.01.20 u/s 387/506 IPC was registered at PS Aman Vihar Rohini Distt. Delhi and investigation was transferred to SI Anil Kumar No. 2898-D, Special Staff, Rohini District Delhi During the course of investigation, CDR of mobile phone No. 9650760709, was obtained and analyzed. The location of above phone was found static in the area of Nand Nagri (Mandoli Jail Delhi), where accused Deepak @ Tittar S/o Rajbir Singh was already lodged in Mandoli Jail in various criminal cases of Delhi.

In view the above mentioned facts, search of the cell where accused Deepak @ Tittar was lodged, was made to recover mobile phone and the mobile phone used in the commission of this offence was recovered from his cell. On 03.03.2020, accused was interrogated in the present case after taking permission of the concerned court. On obtaining sufficient evidence, Respondent-accused was arrested in this case.

On completion of investigation, charge sheet u/s 173 Cr.P.C was filed on 04.05.20 in the court for judicial verdict. The recovered mobile phone used in the commission of this offence is yet to be examined by FSL. Further investigation in this case is in progress and supplementary charge sheet will be filed in court shortly.

c) FIR 463/20 PS Vijay Vihar u/s 307/392/397/34 IPC:

That on 20/06/2016 a PCR call vide DD No. 26 A was received at PS Vijay Vihar and the same was entrusted to SI Narender for necessary action. SI Narender along-with Ct. Pradeep No. 3108/OD reached at the spot i.e. H.No. A-17, Veer Bazaar Road, Shyam Colony, Budh Vihar Ph II, Delhi where it was revealed that four boys had come on two motorcycles and had fired bullets, which had injured two persons. Both the injured were taken to hospital by their families. Crime team was called on the spot and inspection of the spot was got done. Motorcycle left by the accused persons,

empty cartridges, bullet lead and other exhibits were taken in police possession vide seizure memos. Complainant Manjit Kumar s/o Vijay Singh r/o A-5, Veer Bazaar Road, Shyam colony Budh Vihar Ph II, Delhi was present at the spot and got his statement recorded. He alleged that on 20/06/2016 at 10 am, when he was sitting in front of H. No A-17, four boys came on two motorcycles. Both riders were wearing helmets. Ajay Dabas was pillion rider on one bike and Deepak Dabas was pillion rider on the other bike. Ajay Dabas and Deepak Dabas fired on the complainant. Complainant locked himself in a room on first floor. Accused persons while fleeing from the spot fired various rounds injuring two persons and also robbed one motorcycle. Complainant was got medically examined at BSA hospital vide MLC no. 7619/16. SI Narender also collected MLC of other injured persons. Thereafter, case vide FIR No. 463/2016 was registered at PS Vijay Vihar, Delhi u/s- 307/392/397/34 IPC and 25/27 Arms Act and investigation was taken up.

That during course of investigation, Respondent-accused Deepak S/o Rajbir R/o Village Majra Dabas and others were arrested. After completion of investigation, charge sheet of the case was filed in the Ld. Court and the case is pending trial for offences u/s 307/392/397/34 IPC r/w 25/27/54/59 Arms Act in the concerned Court.

d) FIR 102/2016 PS Begum Pur u/s 302/34 IPC & 25/27 Arms Act:

That on 29.01.16, on receipt of information vide DD No. 15A, 16A, 17A, and 18 A, I.O. of the case along with staff reached at Banke Bihari Chowk, Rajiv Nagar, Begumpur, Delhi. On local enquiry, it was revealed that injured had been taken to the Braham Shakti Hospital by PCR Van. Two motor cycles bearing No. DL-8SND-8433, Apache Black colour and HR-05Y-3091 Pulsar Red Color, one helmet, one pistol, one loaded magazine, one live cartridge and seven empty cartridges and blood were found on the scene of crime. The crime scene inspection was done and photographs were taken by crime team experts. SI Pukhraj and other staff was left on the spot and Insp. Mahender Singh along with Ct. Ranbir Singh No. 2168/OD went to Braham Shakti Hospital, where MLC No. 13823/16 of Devender Singh S/O Mahabir Singh, R/O B-42, Rajiv Nagar, Delhi was collected from the hospital on which doctor opined "A/H/O Gunshot injury as told by patient himself, pt. unconscious and drowsy entry wound on left side of chest (bullet inter crush injury on face) showing straight line" and patient was declared dead. Insp. The statement of eye witness Mahabir Singh s/o Hoshiyar Singh was recorded. He stated that he along with his wife and neighbors Rakesh and Pankaj were sitting outside of their house. At around

10.00 am his son Devender Singh was coming home on his motorcycle. When his son reached at the corner of street, four boys on two motorcycles came there and started firing on his son. Seeing this, his son and other neighbours started hitting them with bricks etc due to which helmet of one person fell down. That person was Vinay R/O Barwala village, Delhi. Vinay came towards his son and fired a gun shot at his son. Vinay called one of them by name Ajay. After that they ran away from there on

one motorcycle, but one motorcycle No. HR- 05Y-3091 was left on the spot by them. It was alleged that Vinay and Ajay threatened his son Devender to hand over his cable business to them, but his son refused, due to which they killed his son Devender. Subsequently, a case FIR No. 102/16, U/S- 302/34 IPC & 25/27 Arms Act, was registered. The case property i.e. two Motorcycles No. DL-8SND-8433, Apache Black colour, HR-05Y-3091 Pulsar Red Colour, one helmet, one pistol, one loaded magazine, one live cartridge and seven empty cartridges and other exhibits were taken into the police possession through seizure memos. Post Mortem of deceased Devender Singh was conducted at SGM Hospital Mortuary. During post mortem, doctor seized one bullet lead taken out from deceased's dead body.

That on 6.07.17 an information regarding arrest of accused Ajay Dabas @ Ajay Barwala @ Kala S/o Satbir Singh R/o 271 Vill- Barwala Delhi in case FIR No-

255/17 u/s 186/353 IPC & 25/27 Arms Act PS Amar Colony Delhi was received from AATS/South East Dist. The accused Ajay was formally arrested in the present case FIR and he disclosed that he used to do work of cable with Devender Rathi and he was convicted for life imprisonment in two cases of murder in Bahadurgarh, Haryana. Thereafter Devender Rathi took hold of all cable business and never gave him his part of money. Then he jumped parole and in January 2016, when he along with his brother Ashok @ Vinay, Deepak @ Teetar, Pradeep and Surajpal @ Bhagta murdered Devender Rathi near his house. He also disclosed that he threw one half cocked pistol on the spot, and the pistol recovered from him by AATS was also used in the present case. The pistol thrown by the accused Ajay Dabas on the spot was recovered from the scene of crime and seized in the case. Post mortem report of deceased Devender Singh was received in which doctor opined the cause of death as shock as a result of head and chest injury due to rifled firearm weapon. All injuries were ante mortem in nature. After completion of investigation, charge-sheet was filed and the case is pending trial before the court of Sh. Rakesh Kumar-IV, Id. ASJ, Rohini Court.

e) FIR 69/2019 PS Begum Pur u/s 302/387/120-B IPC & 25/27 Arms Act:

That on 1.03.2019 at 3.45 pm, an information was received in Police Station-Begampur, Rohini, Delhi vide DD No-42A that "40 Foota Road par G-Property, Jain Nagar CALLER NE BATAYA KE YAHA PAR FIRING HUI, JO EK LADKA BIKE PAR THA, BIKE NO U/K OR GOLI LAGI HAI"

The PCR Call was marked to SI Sunil Kumar for necessary action. SI Sunil Kumar along with HC Shrikrishan No-890/RD reached the place of occurrence Shop No-56, 40 Foota Road, Jain Nagar, Karala, Delhi and found blood lying inside and outside the shop and three empty cartridges and one lead (bullet) were also lying there. On enquiry, it was revealed that victim had been taken to Bhram Shakti Hospital, Budh Vihar, Delhi. Thereafter, another information was received vide DD No. 49A to the effect that one Sanjeev S/o Man Mohan Lal R/o H.No- 636/1, Shiv Mandir, Jain Nagar, Karala, Delhi was admitted in Braham Shakti Hospital, Budh Vihar by his friend Kala after receiving gunshot injury and he was declared brought dead. Police reached Bhram Shakti Hospital and collected the MLC No- 1793/19 of the deceased,

wherein the doctor mentioned "Alleged H/O of gunshot near Jain Nagar, 40 Foota Road, Patient brought in casualty unconscious condition and Pt declared brought dead". Thereafter, SI Sunil Kumar came to the place of occurrence but no eye witness was found there. He prepared a rukka and registered case vide FIR No-69/19 dated 1/3/19 u/s-302 IPC and 25/27 Arms Act PS-Begampur, Delhi on the basis of DD Entry and the investigation of the said case was entrusted to Insp. Manohar Lal. That during the course of investigation, I.O. collected the exhibits i.e. blood sample, earth control, blood stained earth control, empty cartridges, bullet from the place of occurrence though seizure memo.

On 2/3/19, post-mortem of the deceased Sanjay Sharma @ Lucky was conducted. That during the further investigation accused Tiger @ Deepak Sharma @ Bachchi S/o Sh. Ganga Sarup R/o H.No-811A, Village- Pillukhera Mandi, Near Jain Sthanak, Tehsil-Saffado, Distt- Jind, Haryana was arrested in the above said case on 17/3/10 and during interrogation, he disclosed to commission of the above said crime on the instruction of Respondent-accused Deepak Dabas @ Deepak Majra and Dinesh Karala. The weapon of offence i.e. pistol used in the commission of the crime and clothes of the accused, which he was wearing at the time of incident was also recovered. That pursuant to the disclosure statement of accused Tiger @ Deepak Sharma @ Bachchi, voice recording and Whatsapp calls, on 20/3/19 the accused and master mind of the murder namely Respondent Deepak Dabas S/o Sh. Rajbir Singh R/o H.No-101, Village-Majra Dabas, PS-Kanjhawala, Delhi and co-accused Dinesh Mathur @ Lagra S/o Bijender R/o VPO-Karala, Delhi were arrested in the above said case. During the further investigation, the alleged mobile phone and SIM No8076705243 used by the accused persons for demanding extortion money and used in conspiracy to kill the businessman named Sanjeev Sharma @ Lucky was recovered from the possession of the accused person Deepak Dabas. The case is pending.

f) FIR 67/20 PS Kanjhawala u/s 302 IPC & 25/27 Arms Act:

That on 19.02.2020, vide DD No. 72-B, a telephonic information regarding an unknown male having gunshot injuries lying in a Scorpio car near Dada Paubara Temple, Ladpur Village, Kanjhawala-Qutabgarh Road, Delhi was received at PS Kanjhawala, which was entrusted to EO/ASI Anil Kumar for necessary action. On reaching the spot and on inspection of scene of crime, one Scorpio car bearing Regn. No. DL-8CAV-3490 was found on the spot parked in middle of road, whose glasses were found broken. Pieces of glass, empty cartridges, bullet lead and blood were found in the car. Besides, several empty cartridges and one live cartridge and bullets were found scattered on the road. On enquiry, it came to light that the injured had been taken to the hospital. No eye witness was found on the spot.

Thereafter, EO/ASI Anil Kumar, No. 174/RD reached to hospital and obtained MLC No. 2813/20 of unknown male s/o unknown r/o unknown aged about 35 years.

Doctor opined "Pt. brought in casualty in unconscious state and Pt. declared brought dead" Later on, the dead body was identified as being Anchil Kumar s/o Rajbir Singh r/o H. No. 954, Satghara Pana, Village Karala, Delhi aged 26 years by his brother. Thereafter, on the basis of DD entry, MLC and circumstances, case vide FIR No. 67/2020 dated 20.02.2020 u/s 302/34 IPC read with 25/27/54/59 Arms Act was registered at PS Kanjhawala and investigation taken up.

That during course of investigation, it was revealed that in year 2019, Anchil Kumar and his associates namely Paras and Sumit had caused gunshot injuries on one Parvesh Kumar s/o Late Ramesh Kumar r/o H.No. 340, Gali No. 20, Anandpur Dham, Karala, Delhi, on which a case vide FIR No. 157/19 u/s 307/34 IPC & 25/27/54/59 Arms Act was registered at PS Kanjhawala and all three accused persons Anchil Kumar, Paras and Sumit were arrested and sent to jail. After completion of investigation, charge sheet of this case was submitted in the Ld. Court and the case is pending trial.

That further, father and brother of the deceased Anchil Kumar were examined, during which they alleged that two criminals namely Deepak Dabas @ Teetar and Dinesh Karala had called them to compromise with Parvesh Kumar in above mentioned case and the said compromise was finalized for Rs. 11 lakhs between them. After that, Anchil Kumar got bail from the court in December, 2019 and came to his house. They further alleged that during the period of jail, group members of Deepak @ Teetar and Dinesh Karala used to bother Anchil in jail. Then, according to them, family members of Dinesh Karala along with Parvesh Kumar and others asked for money from them and threatened with dire consequences. Lastly, they added that criminal Deepak @Teetar called from jail over mobile phone of Anchil Kumar and directed him to give money, but he refused to pay the same.

During further course of investigation, efforts were made to identify the accused persons and CCTV footages of nearby places were analyzed and as a result thereof, some accused persons were identified and three accused persons namely Parvesh Kumar, Harsh @ Bharat and Ajit @ Medi were arrested in the case and are in judicial custody. During their interrogation, it was revealed that all of them along with their coaccused Ajay did recce of deceased Anchil Kumar on the day of incident on the telephonic directions of accused Deepak Dabas @ Teetar, who was lodged in jail and was giving directions them to do recce of deceased Anchil Kumar. The cars used by them for in recce of the deceased were recovered, which were seized in the case.

That after getting permission from concerned Ld. MM Court, accused/Respondent Deepak Dabas @ Teetar was formally arrested in the present case on 11.03.20. During interrogation, Deepak Dabas @ Teetar confessed his role as main conspirator in the conspiracy of murder of deceased along with his other associates. He had given directions over mobile phone to arrested accused persons Parvesh, Harsh @ Bharat, Ajit Kumar @ Maddy and Ajay to do recce on the movement of deceased Anchil

Kumar on the day of incident and after knowing the movement of deceased Anchil Kumar, Deepak Dabas @ Teetar conveyed the same to other associates/ gangsters namely Jitender @ Gogi and Kuldeep Maan @ Fajja, who fired bullets on Anchil Kumar, while he was going towards Kanjhawala in his black Scorpio car. Further, it was revealed that after the incident, he had left the mobile phones used in Mandoli Jail. Thereafter, he was transferred to Central Jail No. 5, Tihar Jail, Delhi. During the course of investigation, CDR of Mobile No. 9650760709 used by accused Deepak Dabas @ Teetar was obtained and it was found that location of this mobile remained static in the area of Nand Nagri (Mandoli Jail) during last 4-5 months. Hence, the mobile phone SAMSUNG having IMEI Nos. 358785103273086/ 358786103273084 recovered during search of jail was seized in the case. That further two accused persons namely Jitender @ Gogi s/o Mehar Singh r/o 1494, Chhota Shiv Mandir, Near Park, Village Alipur, Delhi and Kuldeep Maan @ Fajja s/o Jagbir Singh r/o H. No. 218, Naya Bans, Delhi were also arrested. Further efforts are being made to apprehend remaining co-accused persons. Investigation of the case is in progress, and is yet to be completed.

g) FIR 110/12 PS South Rohini u/s 365/ 392/34 IPC:

In this case, complainant Surender Kumar s/o Bhulan Singh alleged that when he reached in his Swift car on 09.06.2012 at about 9 pm after worship in temple and was about to sit in the driver's seat, a young male came and forcibly shifted the complainant to the side seat and sat on the driver's seat. Three other associates also entered his car.

They forcibly took his purse containing Rs 17000-18000, driving license, voter's card and ATM cards. He alleged that all the accused were aged 20-30 years and were having pistols in their possession. After a long drive, when they reached Vill. Bamnoli, Distt. Jhajjar, Haryana, the car got stuck into a pit. The complainant deboarded from the car and ran away from the spot. Complainant raised alarm to the villagers for help, but all four accused persons fled away from there in his car. During the course of investigation, Respondent and other coaccused were arrested and case property was recovered. After investigation, chargesheet in the case was filed and the case is pending trial.

h) FIR 415/19 PS Kanjhawala u/s 387/506 IPC:

Respondent stood discharged in the said case vide order dated 08.05.2020, against which order, the Petitioner- State reserves its right to take remedies in accordance with law. In view of the said order of discharge, order dated 12.05.2020 so far as it pertains to the above mentioned FIR was infructuous and as such, is not challenged to that extent in this petition. As such, contents of said FIR or prosecution case may not be relevant for the decision of present petition.

i) FIR 791/15 PS Kanjhawala u/s 307/308/457/506/ 323/34 IPC:

That on 20/11/2015 a PCR call vide DD No.96-B was received at PS Kanjhawala and the same was entrusted to ASI Abbas Raza for necessary action. ASI Abbas Raza alongwith Ct. Rajbir reached at the spot i.e. H.No.94, Masjid wali gali village Salahpur Majra, Delhi where the bolt of the door was broken and household goods were scattered and some blood drops were lying on the road near the electric pole outside the house. It was revealed that the injured persons were taken to BSA hospital Rohini by PCR van. ASI Abbas Raza reached BSA Hospital, Rohini and collected the MLC No.14959/15 of Suresh S/o Sher Singh R/o 94, Masjid wali gali Majra Dabas Age-48 years, the MLC No.14765/15 of Devendra S/o Suresh R/o 94, Masjid wali gali Majra Dabas Age-20 years, the MLC No.14767/15 of Rekha D/o Suresh R/o 94, Masjid wali gali Majra Dabas Age-25 years, the MLC No.14958/15 of Chanchal D/o Suresh R/o 94, Masjid wali gali Majra Dabas, Delhi. Doctor had mentioned in the MLCs A/H/O physical assault, injury O/R on all the MLCs and they were under treatment in the hospital. ASI Abbas Raza recorded the statement of complainant Shri Suresh Kumar S/o Late Shri Sher Singh in which he alleged that on the night of 20-21/11/2015, when he was sleeping at his home with his family, at about 11:00 pm accused Deepak @ Teetar S/o Rajbir R/o Village Salahpur Majra Delhi, who lived near his house, entered forcibly in the house with his three accomplices and Deepak showed him pistol and threatened him to withdraw the case registered against him, otherwise he would kill all the family members. He fired at him with his pistol but he managed to evade the gunshot. At the same time, Deepak with his three accomplices started fiercely beating him, his wife Krishna, his daughters Rekha and Chanchal and son Devendra with sticks and hockeys as a result whereof, they sustained injuries on head, legs and hands and they also damaged the household goods of his house. When Deepak was going back, he threatened him to withdraw the case otherwise he would shoot him and his family members with bullets. Thereafter, case vide FIR No.791/2015 was registered at PS Kanjhawala, Delhi U/s- 307/308/457/506/323/34 IPC & 25/27/54/59 Arms Act and investigation had been taken up.

That during course of investigation, on 22/03/2016, accused Deepak and Surajpal @ Bhagta were arrested by ASI Abbas Raza. During the course of investigation, section 3(i) (x) SC/ST Act was added in the present case and another accused Pardeep S/o Balraj was arrested. After completion of investigation, charge sheet of the case was filed in the Ld. Court by ACP Vikas Kumar and supplementary charge sheet was submitted by ACP Saurabh Chandra on 01/06/2016 and the case is pending trial. That during the trial of the case, on 23/03/2018, accused persons were discharged from the provisions of SC/ST Act by ld. ASJ, Rohini Court, Delhi. Now the case is pending trial for offences u/s457/307/506/325/323/34 IPC in the concerned Court."

10. Mr.Chadha has drawn the attention of this Court to the impugned order dated 12.05.2020 passed by learned ASJ, whereby the Court while granting interim bail has opined that respondent has every right to get married and in many cases accused was not directly involved and he was impleaded as conspirator only and there are no

incriminating evidence against him. The learned ASJ further opined that considering the conduct of accused that he had applied for parole in the past for the same purpose of getting married to the said girl, he has proved his case fairly to be released on interim bail.

11. Learned APP further submits that based upon the said opinion, learned ASJ granted interim bail for a period of 45 days in 9 applications of 9 FIRs mentioned above.

12. On perusal of FIR No.217/2016, registered at Police Station Begumpur for the offences punishable under sections 186/353/307/34 IPC, the said FIR was registered on the allegations that on 29.02.2016, secret information was received by SI Sapan Kumar of PS-Kanjhawala that one Deepak, who was wanted in many heinous cases of PS-Kanjhawala and outer Delhi wants to come to Sec-24, Rohini with his associates to commit a crime. On receipt of above information, the above named SI constituted a raiding team comprising of other officers in the supervision of ACP, Begumpur and a trap was laid near Mother Dairy, Pocket-20, Sec-24, Rohini, Delhi. At about 5pm, one Swift Car bearing No. DL-8C AH-2973 came there and stopped. At the same time, one motor cycle bearing No. HR-

79 8066 also came there and stopped near the said car. Thereafter, respondent herein with his associates namely Ashish @ Deva boarded the said Swift car and tried to run away, but raiding team members blocked the road and tried to apprehend the accused persons on which they started firing at the police party. After gun fight, respondent herein along with his associates namely Ashish @ Deva, Pradeep and Sunil were apprehended by the police team. During personal search one pistol , 5 country made pistols and 6 live cartridges were recovered from the possession of respondent, one pistol was recovered from the possession of accused Ashish @ Deva and one country made pistol was also recovered from the possession of accused person Pradeep.

13. The contents of FIR No.76/2020 registered at Police Station Aman Vihar for the offences punishable under section 387/506 IPC are that on 20.01.2020, a Whatsapp call from mobile (Airtel) bearing number 9650760709 was received by one Sunny Suri on his mobile (Airtel) bearing number 9650378872, wherein the caller demanded Rs. 5 lakhs from the receiver, and threatened him with dire consequences, if the demanded money was not paid by him. The receiver identified the caller as Deepak@Tittar, respondent herein as the caller was well known to him. On 27.01.2020, the abovesaid FIR No.76/2020 was registered. During the course of investigation, CDR of mobile phone No. 9650760709, was obtained and analysed. The location of above phone was found static in the area of Nand Nagri (Mandoli Jail Delhi), where respondent herein was already lodged in Mandoli Jail in various criminal cases of Delhi. In view of the above mentioned facts, search of the cell where respondent herein was lodged, was made to recover mobile phone and the mobile

phone used in the commission of this offence was recovered from his cell.

14. In FIR No.463/2020 registered at Police Station Vijay Vihar for the offences punishable under section 307/392/397/34 IPC, the allegations against the respondent are that on 20.06.2016 a PCR call vide DD No. 26 A was received at PS Vijay Vihar and the same was entrusted to SI Narender for necessary action. SI Narender alongwith Ct. Pradeep No. 3108/OD reached at the spot i.e. H.No. A-17, Veer Bazaar Road, Shyam Colony, Budh Vihar Ph-II, Delhi where it was revealed that four boys had come on two motorcycles and had fired bullets, which had injured two persons. Both the injured were taken to hospital by their families. Crime team was called on the spot and inspection of the spot was got done. Motorcycle left by the accused persons, empty cartridges, bullet lead and other exhibits were taken in police possession vide seizure memos. Complainant Manjit Kumar was present at the spot and got his statement recorded. He alleged that on 20/06/2016 at 10 am, when he was sitting in front of H. No A-17, four boys came on two motorcycles. Both riders were wearing helmets. Ajay Dabas was pillion rider on one bike and Deepak Dabas i.e respondent herein was pillion rider on the other bike. The abovenamed accused persons fired on the complainant. However, complainant locked himself in a room on first floor.

Accused persons while fleeing from the spot fired various rounds injuring two persons and also robbed one motorcycle. Complainant was medically examined at BSA hospital vide MLC no. 7619/16.

15. FIR No.102/2016 registered at Police Station Begum Pur for the offences punishable under sections 302/34 IPC & 25/27 Arms Act, on receipt of the information received on 29.01.2016, vide DD No. 15A, 16A, 17A, and 18A, I.O. of the case along with staff reached at Banke Bihari Chowk, Rajiv Nagar, Begumpur, Delhi. On local enquiry, it was revealed that injured had been taken to the Braham Shakti Hospital by PCR Van. Two motor cycles bearing No. DL-8SND-8433, Apache Black colour and HR-05Y-3091 Pulsar Red Colour, one helmet, one pistol, one loaded magazine, one live cartridge and seven empty cartridges and blood were found on the scene of crime. The crime scene inspection was done and photographs were taken by crime team experts. SI Pukhraj and other staff was left on the spot and Insp. Mahender Singh along with Ct. Ranbir Singh went to aforesaid hospital where MLC No. 13823/16 of Devender Singh was collected from the hospital on which doctor opined "A/H/O Gunshot injury as told by patient himself, pt. unconscious and drowsy entry wound on left side of chest (bullet inter crush injury on face) showing straight line" and patient was declared dead. Statement of the eye-witness Mahabir Singh was recorded who recorded that he along with his wife and neighbours Rakesh and Pankaj were sitting outside of their house. At around 10.00 am, his son Devender Singh was coming home on his motorcycle. When his son reached at the corner of street, four boys on two motorcycles came there and started firing on his son. Seeing this, his son and other neighbours started hitting them with bricks etc due to which helmet of one person fell down. That person was Vinay R/O Barwala village, Delhi. Vinay came towards his son and fired a gun shot at his son. Vinay called one of them by name Ajay. After that they ran away from there on one motorcycle, but one motorcycle No. HR-05Y-3091 was left on the spot by them. It was alleged

that Vinay and Ajay threatened his son Devender to hand over his cable business to them, but his son refused, due to which they killed his son Devender.

16. On 06.07.2017, an information regarding arrest of accused Ajay Dabas @ Ajay Barwala @ Kala in case FIR No- 255/17 u/s 186/353 IPC & 25/27 Arms Act PS Amar Colony Delhi was received from AATS/South East Dist. The accused Ajay was formally arrested in the present case FIR and he disclosed that he used to do work of cable with Devender Rathi and he was convicted for life imprisonment in two cases of murder in Bahadurgarh, Haryana. Thereafter, Devender Rathi took hold of all cable business and never gave him his part of money. Then he jumped parole and in January 2016, when he along with his brother Ashok @ Vinay, Deepak @ Teetar (respondent herein), Pradeep and Surajpal @ Bhagta murdered Devender Rathi near his house. He also disclosed that he threw one half cocked pistol on the spot, and the pistol recovered from him by AATS was also used in the present case.

17. In FIR No.69/2019 registered at Police Station Begum Pur for the offences punishable under sections 302/387/120-B IPC & 25/27 Arms Act, it is alleged that on 01.03.2019 at 3.45 pm, an information was received in Police Station-Begampur, Rohini, Delhi vide DD No-42A that "40 Foota Road par G-Property, Jain Nagar CALLER NE BATAYA KE YAHA PAR FIRING HUI, JO EK LADKA BIKE PAR THA, BIKE NO. U/K OR GOLI LAGI HAI". The PCR Call was marked to SI Sunil Kumar for necessary action. Thereafter, information received vide DD No.49A to the effect that one Sanjeev was admitted in Braham Shakti Hospital, Budh Vihar by his friend Kala after receiving gunshot injury and he was declared brought dead. Thereafter, SI Sunil Kumar came to the place of occurrence, but no eye witness was found there. During the course of investigation, I.O. collected the exhibits and during the further investigation accused Tiger @ Deepak Sharma @ Bachchi was arrested in the above said case on 17.03.2010 and during interrogation, he disclosed to commission of the above said crime on the instruction of Respondent herein and Dinesh Karala. The weapon of offence i.e. pistol used in the commission of the crime and clothes of the accused, which he was wearing at the time of incident were also recovered. Pursuant to the disclosure statement of accused Tiger @ Deepak Sharma @ Bachchi, voice recording and Whatsapp calls on 20.03.2019 the accused and master mind of the murder namely Respondent- Deepak Dabas and co- accused Dinesh Mathur @ Lagra were arrested in the above said case. During further investigation, the alleged mobile phone and SIM No.8076705243 used by the accused persons for demanding extortion money and used in conspiracy to kill the businessman named Sanjeev Sharma @ Lucky was recovered from the possession of the respondent herein.

18. Though the contents of FIR in the 9 cases have already been reproduced, therefore, I do not deem it appropriate to narrate each and every case wherein respondent is accused and his involvement in all the 9 cases mentioned above. Whereas, learned ASJ while considering the bail applications of the above mentioned 9 FIRs has opined that in many cases, accused respondent has no direct involvement and he is implicated as conspirator only and there is no directed evidence against him. Moreover, while granting interim bail, the learned ASJ further observed that going by the conduct of the respondent that he applied for parole earlier for the same purpose of getting married to the said girl.

19. The aforesaid reasoning in the impugned order passed by the learned ASJ in all the 9 cases is contrary to the contents of the FIR. Therefore, in my considered opinion, the order is perverse and the said Court has not even taken into consideration that in addition to these 9 cases, there are over 20 cases in which Respondent is accused. It seems that learned Judge has not gone through the nine FIRs thoroughly wherein the respondent herein is directly involved and all cases are of heinous nature. Such a person/accused has no better rights than the rights of the victims who have lost their precious lives and irreparable loss caused to their families.

20. Though the purpose of granting interim bail was to get married and the same has been achieved pursuant to order dated 19.05.2020 passed by this Court in Bail Appln. No. 939/2020 in FIR No.9/2020 whereby the respondent was granted custody parole and got married on 20.05.2020.

21. I have no hesitation in saying that Sh.Davender Nain, learned ASJ while passing the order dated 12.05.2020 has not considered the seriousness of the cases registered against the respondent and has not passed reasoned order in 9 bail applications in 9 FIRs in a very mechanical manner.

22. Accordingly, I hereby set aside impugned order dated 12.05.2020.

23. In view of above, the petition is allowed and disposed of.

24. Registry is directed to place order dated 12.05.2020 passed by learned ASJ and order passed by this Court before ACR/Administrative Committee of above named Judge for the year 2020.

25. Pending application stands disposed of.

26. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

(SURESH KUMAR KAIT) JUDGE JULY 07, 2020/ab