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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 367/2015

Date of decision: 03.07.2015

VIKAS DAGAR Petitioner
Through: Mr.Sahil Sheoran, Advocate.

versus

STATE THROUGH PUBLIC PROSECUTOR..... Respondent
Through: Mr.Sanjay Lao, ASC.
Insp.R.K.Meena, DIU/SW Distt.

+ BAIL APPLN. 508/2015

RAO SATVIR SINGH Petitioner
Through: Mr.Anurag Jain, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) Respondent
Through: Mr.Sanjay Lao, ASC.
Insp.R.K.Meena, DIU/SW Distt.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **03.07.2015**

ASHUTOSH KUMAR, J. (ORAL)

1. The petitioners seek bail in anticipation of their arrest in FIR No.459/2014 which initially was registered under Section 307 and other allied sections of IPC read with Section 23 of the Prevention of Damage to Public Property Act. Later, with the death of one of the

accused, Section 302 was added.

2. The FIR in question was lodged by a Head Constable Bhoj Raj alleging that while he was on duty on 2.8.2014, he was informed by somebody that a tempo, from which foul smell was emanating, was going somewhere. The tempo was stopped and it was found that dead carcasses of animals were kept in the tempo. The persons occupying the vehicle disclosed that they were working for the Municipal Corporation of Delhi and as part of their duty, they had picked up dead animals to be thrown at proper place. The further allegation in the first information report is that the news about the dead animals being transported was disseminated to the local villagers, whereupon many villagers came and tried to manhandle workers of the MCD. When they were prevented from indulging in such act of violence, they grew even more violent and attacked the persons occupying the vehicle with iron rods and blunt weapon. Extra police force also was requisitioned but to no avail. Some of the persons got seriously injured. Many persons were named in the aforesaid FIR including the petitioners in the aforementioned applications.

3. Some of the persons named in the FIR were arrested.

4. The petitioners were not arrested at the spot.

5. A complaint came to be lodged by one of the petitioners namely Rao Satvir Singh against the second investigating officer of the case who tried to extract money from the accused persons. The aforesaid complaint was filed after submission of chargesheet which showed the petitioners as absconders. On such complaint, a case was instituted by the CBI against the erring police officials.

6. Learned counsel for the petitioners submit that the cases of the petitioners are different from those who are in custody and whose bail applications have been rejected. The accused persons who are in custody were the ones who were arrested at the spot.

7. No specific allegation has been levelled against the petitioners. Rather, there is general and omnibus allegation against them of inciting the mob for committing arson and also to kill the persons sitting in the tempo vehicle. The fact that the petitioners could not be arrested at the spot, entitles them to say that their names were arraigned on the instigation of someone else. If so many persons named in the FIR were arrested at the spot, there was no reason for the police authorities to have allowed the petitioners a safe passage.

8. The order impugned reflects that the abscondance of the petitioners weighed heavily against them. However, the petitioners were granted interim protection by a Bench of this Court by order dated 5.5.2015 with stringent conditions namely that they will make themselves available for interrogation as and when required by the investigating agency and that they will positively restrain themselves from making any inducement or threat to the persons acquainted with the facts of the case so that they are not dissuaded from disclosing such facts to the Court or other authority whenever required. They are also saddled with the condition of not leaving the territorial bounds of National Capital Territory without the prior permission of the Court.

9. Considering the facts that no specific role has been attributed to the petitioners; they have only been alleged to have incited the mob which committed the act of arson, which unfortunately led to the death

of one of the victims and the fact that a complaint was lodged by one of the petitioners, though after filing of the chargesheet, against the investigating officer of this case, this Court is inclined to enlarge the petitioners on anticipatory bail subject to the same terms and conditions which were imposed by order dated 5.5.2015.

10. Mr.Sanjay Lao, Additional Standing counsel vehemently opposed the prayer for bail on the ground of seriousness of the charge and the custody of other accused persons.

11. This Court is conscious of the fact that some of the accused persons have been chargesheeted and are in custody. Nonetheless these petitioners, though named in the FIR were not arrested on the spot and were granted the interim protection by this Court. The interim order dated 5.5.2015 passed by this Court is hereby made absolute, subject to the conditions laid down in the order dated 5.5.2015.

12. The petitioners in the event of arrest will be released on their furnishing bail bond in the sum of Rs.10,000/- with two sureties of the like amount to the satisfaction of the Arresting Officer/SHO of the concerned police station.

13. The applications are disposed of accordingly.

ASHUTOSH KUMAR, J

JULY 03, 2015

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