

#23

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04.11.2015

BAIL APPLN. 2405/2015

AZAD

..... Petitioner

Through: Mr. Anurag Jain, Advocate

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Radhika Kolluru, APP with SI
Manohar Lal, PS- Rajouri Garden,
Delhi

**CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.16206/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

BAIL APPLN. 2405/2015

1. The present is an application under section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.) praying for regular bail in FIR No.1402/2015, under sections 147/148/149/186/353/332/307/435/427 IPC

read with section 3 of Prevention of Damage to Public Property Act, 1984, registered at Police Station- Rajouri Garden, Delhi.

2. The applicant has been in judicial custody since the night intervening 21.09.2015 and 22.09.2015.

3. Mr. Anurag Jain, learned counsel appearing on behalf of the applicant states that although the applicant has been named in the subject FIR, he has been falsely implicated. Mr. Jain would then urge that on 21.09.2015, the date when the alleged incident occurred, he was attending to his ailing mother at Khetarpal Hospital, Main Najafgarh Road, Delhi all day long. In this behalf, Mr. Jain learned counsel appearing on behalf of the applicant has invited my attention to the CCTV grabs annexed to the present application and marked as Annexure - 'B' at page 45, which according to him clearly establish the applicant's presence at the Khetarpal Hospital.

4. The case of the prosecution is that the applicant was part of a mob which committed the subject offences within the jurisdiction of Police Station- Rajouri Garden, Delhi between 21.30 hours on 21.09.2015 and 00.15 hours on the following day. Ms. Radhika Kolluru, learned APP would urge that the applicant was apprehended at the spot at 11.30 p.m. on the same night.

5. In the present case, it is observed that on 21.09.2015 at about 04.30 p.m., the dead bodies of three victims of a triple murder were handed over to their relatives after conducting post mortem by the DDU Hospital, Hari Nagar, Delhi. It is noticed that the bodies of the said three victims were taken in a *Janaja Namaz* by their relatives to a Mosque within the jurisdiction of Police Station- Rajouri Garden, Delhi. The residents of the area were stated to be infuriated at the inaction of the official respondents. It is alleged that an agitated mob of 1500 people started shouting slogans against the police and indulged in large scale arson and stone pelting. However, none of the police personnel present at the site was seriously injured. It is also an admitted position that the CCTV footage for 21.09.2015 establishes the presence of the applicant at the Khetarpal Hospital till late in the evening on the day of the incident.

6. The applicant has been in judicial custody since 22.09.2015. Charge sheet has not yet been filed by the police in the subject FIR and is stated to be under consideration.

7. In view of the aforesaid, in my view, the applicant is entitled to be released on regular bail.

8. Ordered accordingly.

9. The applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with two sureties of the like amount to the satisfaction of the trial court subject to the conditions that:-

- (i) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her to disclose such facts to the Court or to any other authority;
- (ii) The applicant shall not try and influence witnesses or tamper with the evidence.
- (iii) The applicant shall appear before the trial court on all the dates fixed for hearing by that Court.

10. With the above directions, the present application is allowed and disposed of accordingly.

11. *Dasti.*

SIDDHARTH MRIDUL, J

NOVEMBER 04, 2015

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