

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

Judgment delivered on : 3rd March 2016

+ BAIL APPLN. 70/2016 & CrI.M.B. No.182/2016 (Interim bail)
SABU @ GULDEEN Petitioner

Through: Mr.M. Hasibuddin, Advocate

versus

STATE (GOVT OF NCT OF DELHI) Respondent
Through: Mr.Rajat Katyal, Additional Public
Prosecutor for the State

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
JUDGMENT

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P.S. TEJI, J.

1. Petitioner seeks bail in an offence registered as FIR No. 721/2015 under Section 307/506/34 of Indian Penal Code (hereinafter referred to as the IPC) and Section 25/27 of Arms Act at Police Station Sangam Vihar, Delhi by filing the present bail application under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.).

2. The prosecution case in nutshell is that one Ajay Gupta (hereinafter referred to as the complainant) went to see his lady friend in Gali No.12, G Block, Near Madarsa at about 8:30 pm on 12.11.2015 and parked his scooty near the visiting place. A person named Azad came there and started abusing him and asked him to

remove the scooty. It is alleged that Azad was drinking beer and had hit his head with the bottle of beer. It is further alleged that when the complainant was heading towards his home, another person named Guldeen (the petitioner herein) had hit on his head with a large piece of pebble. When he reached his home, his elder brother made a PCR call and the PCR Van took him to the trauma centre, from where he was discharged after treatment. It is further alleged that when he was returning to his home with his brothers Amol and Chander Gupta, at about 11.30 pm, there was a great commotion in his gali. He saw that Mukaram, Mahendra and Safi were thrashing his brother with a stick of baseball. Mukaram fired on Amol by a pistol in his hand. Thereafter, his brother Chander, father Prem Shankar Gupta and other family members came out. Guldeen also joined the fight and fired on him by katta. People gathered there and while leaving the spot, Mukaram threatened the complainant that he will kill him. It is alleged in the FIR that Mukaram, Azad and Guldeen alongwith their friends, attempted to kill the complainant and his family members.

3. Mr. M. Hasibuddin, counsel appearing for the petitioner submitted a different version of the incident which took place on 12.11.2015. According to the petitioner, the complainant party went to the house of one respectable person namely Mukaram and started inquiring about the persons namely Asjad, Guldeen and other persons and also hurled him. The complainant party also started abusing and showed pistol to the accused persons and injured Mukaram. Consequently, an FIR No. 722/2015 dated 13.11.2015 under Sections

307/506/34 of IPC read with Sections 25/27 of Arms Act at Police Station Sangam Vihar, Delhi was registered by Mukaram against the complainant of the present case.

4. Counsel for the petitioner contended that the co-accused of the present case – Suraj @ Mohinder and Sone @ Punit have been enlarged on bail by the Court of Learned District & Session Judge, Saket Courts, New Delhi and the two accused persons of FIR No. 722/2015, namely, Ajay Gupta and Amol Gupta were also released on bail by the Court of District & Session Judge, Saket Courts, New Delhi.

5. Counsel for the petitioner further contended that the quarrel which took place on 12.11.2015 was not intentional or motivated but it was due to the spur of the moment and the injury received by the injured of both the FIRs were simple and sharp and the injured were also discharged on the same day. It is further contended that the petitioner is languishing in jail since 13.11.2015; investigation of the present case has already been completed and the petitioner is no more required for investigation.

6. Counsel for the petitioner has also drawn attention to the Memorandum Of Understanding dated 20th January 2016, arrived at between the complainant parties of both the FIRs (721/2015 & 722/2015), recording that with the passage of time and with interference of well wishers and respectable persons of societies, number of meetings were convened to bring back peace and harmony

in the society among the parties and since both the parties are known to each other and they were in their tender age, so there elders and respectable members of the societies entered into their personal grievances and both the complainant parties are agreed to live in neighborhood peaceful.

7. Mr. Rajat Katyal, Additional Public Prosecutor appearing for the State submitted that there are cross FIRs between the parties. The State has also filed reply to the bail application in which it is contended that complainants of both the cross FIRs have suffered with gunshot injury and during inspection of scene of crime four bullet leads, one magazine with one live bullet and broken base ball bat/dandas were recovered. Learned Additional Public Prosecutor for the State also submitted that the report of MLC in respect of injured persons have been opined as simple/blunt, simple/sharp and simple. It is further submitted that two accused namely Mukram and Safiq are yet to be arrested and NBWs against them have been issued from the Court of learned Metropolitan Magistrate, Saket.

8. With regard to the present petitioner, Sabu @ Guldeen, it is submitted by the State that the petitioner has committed a serious offence with his associates in an organized manner. The State has also raised apprehension that if the petitioner is released on bail then he may cause harm/injury to the victim party, therefore, the petitioner be not granted bail in the present case.

9. I have heard the submissions of counsel appearing on behalf of

both the sides and gone through the material placed on record.

10. After careful scrutiny of the case, this Court observes that there was an altercation between the complainant and accused persons and as a result thereof cross-FIRs have been lodged against each other. This Court also observes that with the intervention of respectable members of the societies, complainants of both the FIRs have entered into a Memorandum of Understanding on 20.01.2016, wherein both the parties have agreed to bring peace and harmony in each others respective life. This Court also observes that there is no recovery of weapon of offence from the petitioner. This Court also take note of the fact that the other accused persons have already been enlarged on bail.

11. After going through the contents of the petition as well as contents of cross FIRs recorded in this case and the fact that both the parties have entered into memorandum of understanding and undertaken to keep peace and harmony, and the fact that the accused persons of the other FIR have been enlarged on bail, this Court is inclined to grant bail to the petitioner – Sabu @ Guldeen subject to his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the Trial Court. Petitioner is directed not to tamper with the evidence and shall not leave the country without prior permission of the court.

12. It goes without saying that anything observed in the present order, shall not have any bearing on the merits of the case.

13. Since the relief prayed in the main bail petition is granted to the petitioner, therefore, the application seeking interim bail is rendered infructuous. Consequently, the bail application as well as pending application are disposed of.

P.S.TEJI, J

MARCH 03, 2016

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