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

+ **BAIL APPLN. 2122/2020**

ILIYAS

..... Petitioner

Through

Mr. Colin Gonsalves, Sr. Adv. with
Mr. Lavkesh Bhambhani, Mr. Adhil
Saifuddhen and Mr. Olivia Bang,
Advts.

versus

**GOVT. OF NCT OF DELHI THROUGH
PUBLIC PROSECUTOR & ANR.**

..... Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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25.08.2020

The hearing has been conducted through video conferencing.

1. Present petition has been filed by the petitioner under section 439 Cr.P.C. for grant of regular bail in pursuance to FIR No.134/2020 for the offences punishable under Sections 147/ 148/ 149/ 307/ 436/455/ 120B/ 34 IPC & 25/27 of Arms Act, registered at police station Tigri, New Delhi.
2. Learned Senior Counsel appearing on behalf of the petitioner submits that the present FIR was registered at Police Station- Dayal Pur, upon the complaint of one Yatender Sharma, Manager, DRP Covenant Secondary School, Babu Nagar, Near Shiv Vihar, Tiraha, Delhi-94 (hereinafter referred as "School"). He informed the police officials on 24.02.2020 at around 3:00 PM and allegedly stated that rioters in large numbers had entered and attacked

the school, assaulted and threatened the guard with the intention of murdering the guard and his family. It is further alleged that the rioters were engaged in the robbery of valuable items including computers, laptops, printers, amplifiers, sound system and caused severe destruction of the school building. Finally, the rioters allegedly set the guard post on fire with an intention to commit murder of guard and his family.

3. Learned senior counsel submits that the petitioner was initially arrested on 17.03.2020 around 4:00 P.M. by police officials in FIR No. 137/2020 which pertains to alleged incident of rioting at Rajdhani Public School (situated opposite to DRP Covenant Secondary School) in which the petitioner has been granted bail by Sessions Court vide order dated 16.05.2020. On 14.05.2020, the petitioner was formally arrested and arraigned as an accused in the present FIR being 134/2020 i.e. only two days prior to the order dated 16.05.2020 in FIR No. 137/2020 whereby the petitioner was granted bail. Therefore, it won't be out of place to state that the petitioner has been arraigned as an accused in the instant FIR for the sole purpose of keeping him in custody as he had secured bail in FIR No. 137/2020.

4. Learned senior counsel appearing on behalf of petitioner further submits that at the threshold, all the offences charged under the present FIR, except Sections 307, 436, 455 of IPC are bailable. Investigating agency has not been able to produce any material evidences to make out a case fulfilling the ingredients of Sections 307, 436 and 455 of IPC.

5. Learned senior counsel has drawn the attention of this Court to the statements of Roop Singh, guard of DRP Convent Secondary School, recorded under Section 161 Cr.P.C dated 08.03.2020, under Section 164

Cr.P.C. dated 11.03.2020 and statement under Section 161 Cr.P.C dated 14.03.2020 and 28.03.2020 in which there is no mention of the name of the petitioner. Further, in the statement of Manoj Kumar, guard of Rajdhani School recorded under Section 161 Cr.P.C dated 07.04.2020 and in the statement of Mrs. Geeta, wife of Roop Singh, recorded under Section 161 Cr.P.C, the petitioner's name is not mentioned. However, it is only on 17.04.2020 that the name of the petitioner surfaced for the first time in the 5th statement of Roop Singh recorded under Section 161 Cr.P.C.

6. The present matter was taken up on 10.08.2020 and Mr. Amit Chadha, APP for State had appeared and accepted notice. Since in these matters SPPs are appointed, none appeared on their behalf, moreover, in spite of order date 10.08.2020, status report has not been filed and today none has appeared on behalf of State. At this stage, Mr. Amit Chadha, APP for State has informed this Court that the concerned deputed officer is ASI Devender who had duly informed the officials of police station Dayal Pur in accordance with letter dated 24.08.2020 issued by DCP, North-East, Delhi, according to which SHO, Police Station Dayal Pur was informed about the present matter listed before this Court today and further directed to send the IO of the case to appear before the court and in the absence of IO, the SHO himself shall appear before the court, despite having this information none has appeared.

7. In view of the aforesaid facts above and the fact that in FIR No. 137/2020 registered at Police Station Dayal Pur, petitioner has already been released, I am of the view that the petitioner deserves bail in the present case also.

8. Accordingly, he shall be released on bail forthwith on his furnishing a personal bond of Rs.25,000/- and a surety of the like amount to the satisfaction

of Trial Court

9. Petitioner shall not directly or indirectly influence any witness or tamper with the evidence.
10. The Trial Court shall not get influenced by the observation made by this Court while passing the order.
11. The petition is, accordingly, allowed and disposed of.
12. Copy of this order be transmitted to the Jail Superintendent concerned and Trial Court for information and necessary compliance.
13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email

SURESH KUMAR KAIT, J

AUGUST 25, 2020
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