

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 143/2021**

Date of decision: 23rd February, 2021

IN THE MATTER OF:

AMAN ABBAS

..... Petitioner

Through
versus

Mr. F.A. Banisrael, Advocate

STATE

..... Respondent

Through

Mr. Saleem Ahmed, SPP with
S.I. Amit Kumar, P.S. New
Usmanpur

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This is an application under Section 439 of the Code of Criminal Procedure (Cr.P.C.) seeking regular bail in FIR No.87/2020 dated 25.02.2020 registered at Police Station New Usman Pur, Delhi for offences under Sections 147, 148, 149, 188, 307, 427 of Indian Penal Code (IPC) and Sections 25 and 27 of the Arms Act.

2. A perusal of the FIR shows that an information was received on 25.02.2020 that persons belonging to Muslim community have gathered in the area and are indulging in rioting and a few of them are armed with weapons and are resorting to firing, throwing stones and are demonstrating. On receiving the information the Police reached the spot and injured persons were taken to the hospital for treatment. Eyewitnesses were traced and FIR No.87/2020 under Sections 147, 148, 149, 188, 307, 427 of Indian Penal Code (IPC) and Sections 25 and 27 of the Arms Act was registered. The petitioner was arrested on 02.05.2020.

3. The petitioner approached the Sessions Court seeking bail but the same was rejected by an order dated 26.08.2020. Co-accused, Mohd. Naim,

was granted bail by this Court on 18.09.2020. Claiming parity with the case of Mohd. Naim the petitioner once again approached the Sessions Court by moving a bail application but the same was dismissed by order dated 20.10.2020. Hence the petitioner approached this Court by filing the instant bail application.

4. This court issued notice on 14.01.2021 and directed the State to file the Status Report. The Status Report has been filed. The Status Report shows that the entire incident was captured on a CCTV camera and on the basis of the CCTV footage the petitioner was arrested. The Status Report states that the petitioner was identified by the victim Bhawe Gautam and Constable Anuj. The Status Report states that the petitioner was having a *danda* in his hand at the time of the incident. It is stated in the status report that the *danda* has been recovered at the instance of the petitioner. The charge sheet has been filed on 09.06.2020.

5. Heard Mr. F.A. Banisrael, learned counsel appearing for the petitioner and Mr. Saleem Ahmed, learned SPP appearing for the State.

6. Mr. F.A. Banisrael, learned counsel for the petitioner states that the petitioner is in custody since 02.05.2020, charge-sheet has been filed and the trial has not even begun. He further states that the petitioner's case is identical to that of Mohd. Naim, who has been granted bail by this Court in BAIL APPLN. No.2732/2020. It is contended by the learned counsel for the petitioner that in the case of Mohd. Naim, he was seen having a stone in his hand and in the present case the petitioner had a *danda* in his hand.

7. On the other hand Mr. Salim Ahmed, learned SPP for the State states that if the petitioner is granted bail he would get involved in the same kind of crime and disrupt peace and tranquility and help the co-accused persons

in absconding. He would contend that the petitioner has actively participated in a riot by being a member of an unlawful assembly. It is contended that if the petitioner is granted bail at this stage it would send an adverse message to the society.

8. The petitioner is in custody since 02.05.2020. Charge-sheet has been filed. There is no likelihood of the trial commencing and concluding in the near future. In fact investigation regarding a few accused is going on and a few accused are absconding. The petitioner's case is similar to the case of Mohd. Naim, in that case Mohd. Naim was having a stone in his hand and in the present case the petitioner was having a *danda*. The trial in this case will take substantial time. It is also not disputed that there have been cross FIRs.

9. Keeping in mind the facts and circumstances of the case and more particularly the fact that the petitioner is in custody since 02.05.2020 and that the trial of the case will take substantial time, this Court is inclined to grant bail to the petitioner. The petitioner is directed to be released on bail forthwith, if not required in any other case, on his furnishing a personal bond in the sum of Rs.25,000/- and with one surety in the like amount by a relative of the petitioner to the satisfaction of the Trial Court.

10. The petitioner should not tamper with evidence or indulge in any kind of similar activity which is likely to result in breach of peace in the society.

11. The petition is, accordingly, allowed and disposed of.

12. A copy of this order be transmitted to the Jail Superintendent concerned and the Trial Court for information and necessary compliance.

SUBRAMONIUM PRASAD, J.

FEBRUARY 23, 2021/Rahul