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

+ **BAIL APPLN. 533/2023**

**ASIF MOHD KHAN**

..... Petitioner

Through: **Mr.M.A. Hasan, Advocate.**

Versus

**STATE OF NCT OF DELHI**

..... Respondent

Through: **Mr. Satish Kumar, APP for the State along with Mr. Chaman Prakash, Mr. Amit Chaudhary, Mr. Ashok Kr. Shukla and Mr. Lalit Kumar, Advocates along with Inspector Sonu Kumar and SI Ashish, P.S. Shaheen Bagh.**

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+ **BAIL APPLN. 655/2023**

**ASIF MOHD KHAN**

..... Petitioner

Through: **Mr.M.A. Hasan, Advocate.**

Versus

**STATE OF NCT OF DELHI**

..... Respondent

Through: **Mr. Satish Kumar, APP for the State along with Mr. Chaman Prakash, Mr. Amit Chaudhary, Mr. Ashok Kr. Shukla and Mr. Lalit Kumar, Advocates along with Inspector Sonu Kumar and SI Ashish, P.S. Shaheen Bagh.**

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**



**ORDER**  
**01.05.2024**

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1. The instant petitions under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (‘Cr.P.C.’) have been filed on behalf of petitioner seeking grant of regular bail in case arising out of FIRs bearing no. 419/2022 and 09/2023 registered at Police Station Shaheen Bagh for offences punishable under Sections 186/353/341/153A of Indian Penal Code, 1860 (‘IPC’).

2. Briefly stated, facts of the present case are that FIR bearing no. 419/2022 was registered on the complaint of the complainant, a police officer, who had alleged that the complainant, a Sub Inspector at Shaheen Bagh Police Station, was instructed on 25.11.2022 to reach Tayyab Masjid, where a rally was being conducted without appropriate permissions. Upon arrival, the Police had observed that the present applicant/accused Asif Md. Khan was addressing his supporters on the stairs of a shop in front of Tayyab Masjid, using a loudspeaker. Thereafter, the complainant had attempted to stop the present applicant/accused Asif Md. Khan from conducting the rally, after which he reacted aggressively and had pushed and abused the complainant, and had issued threats. The present applicant was arrested in relation to the present FIR on 26.11.2022. The applicant was released on bail *vide* order dated 08.12.2022 passed by learned Sessions Court, and a condition was imposed that the present applicant shall not involve himself in any other offence. While the present applicant was on bail, he had again misbehaved, and assaulted a constable from Police Station Shaheen Bagh, and a case bearing FIR no. 09/2023 was registered. The applicant was then arrested in case bearing FIR no. 09/2023 on 04.01.2023.



An application for cancellation of bail in case bearing FIR no. 419/2022 was moved, since the applicant had violated a condition of the bail order dated 08.12.2022, and the bail granted to the applicant was cancelled *vide* order dated 28.01.2023 passed by learned Sessions Court.

3. Learned counsel appearing on behalf of the applicant argues that the applicant has been falsely implicated in the present case. The bail which was granted to the applicant was cancelled erroneously, and without any just reason by saying that he has violated the conditions of bail. It is argued that just because a case was registered, it cannot be said that the applicant has committed the offence as no final conclusion was aroused at that stage. It is argued that the preset applicant has already been in the custody for more than one month. It is further argued that in all other cases where he was acquitted, the same was on merits and there was no material justifying that the case was made out for assault on public servant or preventing them in discharge of public duty. It is further submitted that the applicant is ready to submit himself to any condition/conditions, which this Court may impose to allay the fears of the prosecution of any kind of likely absence from the trial. Thus, it is prayed that the present applicant/accused be released on bail.

4. *Per Contra*, learned APP appearing on behalf of the State, argues that the allegations against the present applicant/accused are serious in nature. It is argued that the present applicant is a habitual offender, and had again committed the same act after being released on bail by the learned Sessions Court. However, it is stated that charge-sheet has already been filed in this case.

5. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State, and has perused material on record.



6. The allegations against the present applicant/accused is that he had obstructed a public servant from doing his duty, which was during the period of MCD election, as has been mentioned in the complaint. It is noted that the learned Sessions Court had released the present applicant/accused on bail *vide* order dated 08.12.2022. It was only due to a subsequent FIR that the bail granted to the present applicant/accused was cancelled *vide* order dated 28.01.2023 passed by learned Sessions Court. This Court notes that the present applicant/accused has been in judicial custody since 04.01.2023 that is for a period of 1 year 3 months. The learned counsel for the applicant has also submitted that the applicant is willing to abide by any condition imposed by this Court if bail is granted to him. Further, the charge-sheet has already been filed in this case.

7. Accordingly, in view of the overall facts and circumstances of the case, this Court is inclined to grant bail to the petitioner on his furnishing personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court concerned on the following terms and conditions:

- i) The applicant shall remain available on mobile numbers; shared by him with the Police.
- ii) The applicant shall not leave the country without prior permission of the concerned Court.
- iii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- iv) In case of change of residential address/contact details, the petitioner shall promptly inform the same to the



concerned I.O/SHO as well as Trial Court

v) The applicant shall not indulge in any other similar act.

8. The applications stand disposed of.
9. The order be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**MAY 1, 2024/A**

*Click here to check corrigendum, if any*