

(2013) 06 DEL CK 0001

In the Delhi High Court

Case No : Bail Application No. 995 of 2013

Akram Khan

APPELLANT

Vs

State Govt. of NCT of Delhi

RESPONDENT

Date of Decision : 11-06-2013

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 161, 438
Penal Code, 1860 (IPC) — Section 307

Citation : (2013) 5 AD 529

Hon'ble Judges : Manmohan Singh, J

Bench : Single Bench

Advocate : Aditya Aggarwal, for the Appellant; Mukesh Gupta, APP, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Singh, J.—The petitioner has filed the abovementioned application u/s 438 Cr.P.C. for giving him the protection from arrest by the police officials under FIR No. 226 of 2013, registered under Sections 307 IPC and Section 27 of the Arms Act, 1959 at Police Station Seelampur. On 16th May, 2013 at 12.30 a.m., information was received from JPN hospital at Police Station Seelampur, vide DD No. 6A that one Babua had been admitted in the hospital after sustaining gunshot injury. On receipt of DD No. 6A, SI Dinesh Kumar alongwith Ct. Firoj Alam No. 3124/NE reached at JPN Hospital, Delhi and found one Babua @ Shahzeb S/o. Lt. Laeek R/o E-13A/546, J-Block, New Seelampur, Delhi admitted in the hospital vide MLC No. 95590.

2. The doctor mentioned on the MLC alleged history of gunshot and declared the injured unfit for statement. No eye-witness was found in the hospital. Thereafter, SI Dinesh Kumar along with Ct. Firoj Alam reached at the spot Jhuggi No. E-13A/546, J-Block, New Seelampur, Delhi where blood stains were present on the road in front of Jhuggi Nos. E-13A/546, E-13B/347 and E-13AB/547.

3. One Azar S/o Mohd. Waseem R/o E-13A/546, J-Block, New Seelampur, Delhi was also present and introduced him as the eye-witness of the incident. SI Dinesh Kumar recorded his statement, who stated that the marriage of his sister Salma @ Ruby was fixed for 16th May, 2013. Hence, a dancing programme was organized at his house on 15th May, 2013 in the night and he had also invited his friends to attend the function. On 15th May, 2013 at about 11.30 p.m., music system/DJ was displayed in the street in front of Jhuggi No.E-13A/546, J-Block, New Seelampur, Delhi and people were dancing there. His friend Akram S/o Hasmat @ Usmat was also dancing there and waving a country made pistol in the air. When his maternal brother Babua @ Shahzeb objected and asked Akram to keep the pistol inside, Akram started beating Babua and threatened him that he was becoming a big leader and he would taught him a lesson. Thereafter, Akram shot Babua with his pistol due to which Babua sustained gunshot wound in his chest and Akram fled away from the spot. His family members took Babua to JPN Hospital. During the course of investigation, photographer and crime team visited the spot and statements of other witnesses were also recorded.

4. On the basis of his statement, the case FIR No. 226/13, under Sections 307 IPC and 27 of Arms Act was registered at Police Station Seelampur and the investigation was done by SI Dinesh Kumar.

5. Raids were conducted at the house of the petitioner/accused Akram several times but he was not found present at his home, evading his arrest and absconding. The petitioner also moved applications for anticipatory bail twice before the Sessions Court, and both the bail applications were dismissed by Addl. Sessions Judges, Karkardooma Courts on 20th May, 2013 and 30th May, 2013 respectively. Now, the petitioner and his family members are pressurizing the complainant and his family members to withdraw the case and settle the matter. The mother of injured, namely Smt. Farzana and the mother of complainant, namely Reshma had stated that Akram and his family members were regularly mounting a pressure upon them to settle the matter in one lac rupees.

6. As per the status report, the accused Akram and his family members have a terror in the locality and nobody dare to come forward to complain against them. Hence, there is every possibility that they may influence the complainant and other witnesses by putting pressure tactics upon them. The injured is still admitted in the hospital and is in critical condition. Custodial interrogation of the accused is required to recover the weapon of offence i.e. country-made pistol from him.

7. The case of the petitioner is that the complainant i.e. author of the F.I.R., namely, Azar son of Mohd. Waseem had even given the statement to the DCP (North-East), Delhi dated 17th May, 2013 by fax, stating that the name of the petitioner has been forcefully and wrongfully named in the present F.I.R. by the concerned Police Officer/s. In the statement, the complainant stated that on 15th May, 2013, i.e., on the eve of the marriage of the complainant's sister, two unknown persons came on the bike at around 11.00 p.m. in the night when the

function was going on and those two persons were wearing helmet and they made a fire and the bullet by hurting the hand of the petitioner.

8. It is alleged in the petition that the complainant was taken to the Police Station and he was forced to sign the papers which were narrating the story in the FIR. The complainant was threatened by the police official/s that if the complainant would make any hurdle in signing the said story made by the police official/s, they won't allow him to get the marriage of his sister done. Under the threat and coercion made by the police official/s to the complainant and by having no other choice with the complainant, in these circumstances, the complainant had signed the papers.

9. I have heard the learned counsel for the petitioner as well as the learned APP for the State who has informed the Court that the victim is in a critical condition. It is also informed by the learned APP that the statements of the mother of the victim Babua and the mother of the complainant Azar have been recorded by the police u/s 161 Cr.P.C. who have stated that the family members of Akram, the petitioner herein, were making pressure upon them to withdraw the case and to make the statement in the Court that the bullet shot on Babua was not busted by the petitioner, but the same was made by two unknown persons who came on the motorcycle and were wearing helmet. The petitioner's family has also offered them Rs. 1 lac for the treatment of victim Babua. Both of them prayed for taking legal action against the petitioner. Keeping in view the nature of allegations made by the complainant against the petitioner and seriousness of the matter coupled with the fact that the investigation is still at the initial stage for which the petitioner's custodial interrogation is necessary as per the case of respondent, I am of the view that the application for grant of anticipatory bail of Akram Khan, the petitioner, is liable to be dismissed. Ordered accordingly. Order passed on 3rd June, 2013 is vacated.