

IN THE COURT OF SH. AMITABH RAWAT, ADDITIONAL SESSIONS JUDGE-
03, SHAHDARA DISTRICT, KARKARDOOMA COURT, DELHI

IA No. 18/2020 (Gulfisha Fatima)

FIR No. 59/20 dated 06.03.2020

PS- Crime Branch, Delhi (Investigated by Special Cell)

U/s 13/16/17/18 UA (P) Act, 120B r/w 109/114/124-A/

147/148/149/153A/186/201/212/295/302/307/341/353/395/420/427/435/436/452/
454/468/471/34 IPC &

Section 3 & 4 Prevention of Damage to Public Property Act, 1984

and Section 25/27 Arms Act

State of NCT of Delhi Vs. Tahir Hussain & ors.

19.10.2020

ORDER

1. Vide this order, I shall dispose off the application of accused Gulfisha under Section 167 (2) Cr.P.C for grant of statutory bail.

2. Ld. Counsel for the accused has moved the application stating that the accused was arrested on 11.04.2020 in the present FIR. The accused is in judicial custody for a period of 183 days, as on 12.10.2020 when the present application was filed. Since no report u/s. 173 Cr.P.C has been filed by the police, therefore, the accused has right to be released on bail under section 167 (2) Cr.P.C. upon the expiry of 90 days of custody. It is prayed that accused may be granted statutory bail in the present case. During the course of arguments, Ld. Counsel for the accused has referred to one judgment of Hon'ble Supreme Court of India titled as Bikramjit Singh Vs. State of Punjab, Criminal Appeal no.667/2020 (SLP (Crl) No.2933/20) to contend that this court/undersigned does not have jurisdiction over the present case.

3. Ld. Special Prosecutor had submitted that there is no merit in the present application in as much as this court has been authorized by the Hon'ble High Court of Delhi to deal with the present case. He has referred to the

notification dated 03.08.2020 issued by the Principal Secretary (Law, Justice and LA), Government of NCT of Delhi and one Administrative order dated 04.08.2020 issued by the Hon'ble High Court of Delhi. Moreover it is submitted that the charge-sheet in the present case was filed within time on 16.09.2020. It is submitted that the charge-sheet/report under Section 173 Cr.P.C was filed within the extended time and thus, no case for statutory bail is made out. It is prayed that application be dismissed. It was also submitted that the judgment relied upon by the counsel for the accused has no relevance in the present facts, as in that case, order of Sub-Divisional Magistrate for extension of period of investigation was set aside and in this case, it has been done by competent court.

4. I have heard the Ld. Counsel for the accused and Ld. Special Public Prosecutor for the State and perused the record including the judgments relied upon.

5. a) In the present case, the accused Gulfisha was arrested on 11.04.2020 As per the counsel for the accused, no charge-sheet has been filed in the present case till date and thus the accused must be released on the statutory bail.

b) As per the accused herself, as stated in the application, she had earlier moved an application dated 10.08.2020 for statutory bail under Section 167 (2) Cr.P.C on the ground that the extension order dated 29.06.2020 under Section 43 D(2)(b) UA(P) Act, 1967 for extending the period of investigation till 29.08.2020 was not legal and without jurisdiction. The said application under Section 167 (2) Cr.P.C was earlier dismissed vide order dated 31.08.2020 by this court.

c) Thereafter, the next development that took place is that further extension of period for investigation, under Section 43 D(2)(b) UA(P) Act, 1967 was granted till 17.09.2020 vide order passed by the undersigned.

d) It is seen as per record, that the charge-sheet in the present case was filed on 16.09.2020 and infact even cognizance was taken on 17.09.2020. The present accused with counsel was present on the said date.

e) Regarding the competence of this court/undersigned to deal with the present matter, the same is without merit. The undersigned is presiding over the court of ASJ-03, Shahdara District, Karkardooma Court, Delhi upon the transfer order of the Hon'ble High Court of Delhi. Further, there is a notification no. F.No.6/13/2020-Judl./Suptlaw/ 728-793 dated 03 August, 2020, which is reproduced as under:

NOTIFICATION

No. F. 6/13/2020-Judl./Suptlaw/728-743 : In exercise of the powers conferred under Section 22 of the National Investigation Agency Act, 2008, the Lieutenant Governor of the National Capital Territory of Delhi, on the recommendation of High Court of Delhi, is pleased to additionally designate the Court of Additional Session Judge-03, Shahdara District, Delhi as Special Court for the trial of cases relating to communal violence / riots which took place in Delhi early this year in which scheduled offences under the National Investigation Agency Act, 2008 are also made out.

By order and in the name of the
Lt. Governor of National
Capital Territory of Delhi,

(Sanjay Kumar Aggarwal)
Principal Secretary (Law, Justice & L.A.)

Thereafter, there is an order no.2051-52/G-1/Gaz/DHC/2020 dated 04/08/2020 of the Hon'ble High Court of Delhi and same is reproduced as under:

To,

(1) The District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi. (2) The District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi.

Sub: Designation of a Court as Special Court under Section 22 of the National Investigation Agency Act, 2008 and transfer of cases thereto.

Sir,

I am directed to forward herewith Notification No. F.6/13/2020-Judl./Suptlaw/778-793 dated 03.08.2020 issued by the Government of NCT of Delhi whereby the Lieutenant Governor of the National Capital Territory of Delhi, on the recommendation of this Court has additionally designated the Court of Additional Sessions Judge-03, Shahdara District, Delhi as Special Court for the trial of cases relating to communal violence/riots which took place in Delhi early this year in which scheduled offences under the National Investigation Agency Act, 2008 are also made out.

I am further directed to say that Hon'ble the Administrative and General Supervision Committee has been pleased to order that after Additional Sessions Judge-3 Shahdara has been notified as Special Court for the trial of cases relating to communal violence/riots which took place in Delhi early this year in which scheduled offences under the National Investigation Agency Act, 2008 are also made out the two cases i.e. FIR No.59/20 PS Crime Branch and FIR 22/20 PS Crime Branch shall be transferred from the Court of ASJ-2, New Delhi to the Court of ASJ-3 Shahdara District, Delhi.

I am, therefore, to request you to take necessary steps for transfer of the aforesaid cases.

Thus, by virtue of the above orders, the undersigned is dealing with the present matter and thus, this court is competent to deal with the present matter.

6. In view of the above discussion, there is no merit in the present application. Accordingly the present application of accused Gulfisha Fatima under Section 167 (2) Cr.P.C stands dismissed.

(AMITABH RAWAT)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 19.10.2020