

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

Bail Application No. 1675-2020

FIR No. 50/2020

PS- Jafrabad

U/S. 147/148/149/186/283/302/307/332/323/353/427/109/188/120B/34 IPC
read with Section 25/27 Arms Act & Section 3/4 PDPP Act
State Vs. Gulfisha Fatima @ Gul

21.11.2020

ORDER

1. This order shall dispose off the application for bail of applicant/accused Gulfisha Fatima @ Gul moved under Section 439 of Code of Criminal Procedure.

2. Arguments were heard at length on behalf of accused by Sh. Mehmood Pracha, Ld. Counsel for applicant/accused and for prosecution by Sh. Rajeev Krishan Sharma, Ld. Special Public Prosecutor for the State.

3. I have gone through the application, reply of Investigating Officer, and the charge-sheet.

4. **CASE OF THE APPLICANT/ACCUSED**

(a) It was argued by the Ld. Counsel for the applicant/accused Gulfisha Fatima @ Gul that she is in custody since 03.06.2020. She has been falsely and maliciously implicated in the present case without any evidence.

(b) The applicant is a law abiding and peace loving citizen of India. She has clean antecedents and has no previous criminal record.

(c) One co-accused namely Devangana placed similarly to the applicant has been granted regular bail by the Hon'ble High Court of Delhi vide order dated 01.09.2020. Another co-accused Natasha Narwal has also been granted bail by this court on 17.09.2020.

Thus, applicant may be granted bail on parity.

(d) It was submitted that no role has been attributed to the applicant except vague and unsubstantiated allegations which have no nexus with the alleged crime.

(e) The Applicant/Accused stays with her family at permanent address being C-927, Street No. 5, Chauhan Bangar, New Seelampur, Delhi 110053, and as such there is no apprehension of her absconding or evading the trial;

(f) The Applicant/Accused undertakes not to tamper with the evidence, if any, or intimidate any witnesses related to the present case;

(g) The Applicant/Accused undertakes to cooperate with the Police in the course of investigation and undertakes to appear before the Investigation Officer and this Hon'ble Court as and when required;

(h) That the Applicant/Accused further undertakes to comply with any

condition imposed by this Hon'ble Court necessary for grant of bail.

It was prayed that the bail application of applicant be allowed.

5. CASE OF THE PROSECUTION

(a) Ld. Special Prosecutor had vehemently opposed the bail application of accused stating, in the reply, that in the North-East District of Delhi, there were malafide violent protest against CAA, NRC & NPR by the organized mob. Due to aggression of mob on 24.02.2020, Promulgation Order under Section 144 Cr.P.C was issued to maintain the law and order & to prevent any unlawful incident. On 25.02.2020 several protesters/rioters gathered with common intent to cause rioting at different places in the area of P.S. Jafrabad and various other places of North-East District.

(b) Several information regarding stone pelting, firing, Acid attack and setting fires were regularly being received. On these information, SHO P.S. Jaffrabad along with his staff & outside force i.e. CRPF was present at the main Jafrabad Road 66 Foota near Crescent Public School to contain the violent mob and restore peace. The violent crowd was bent upon to proceed towards Maujpur, where already another mob of another community had gathered. The violent crowd had blocked the 66 Foota road, near Metro Station Jafrabad. The police personnel tried their best to stop the violent mob and the protesters. On this, violent crowd started pelting stone & firing on the police personnel. In self-defence and to save the public at large, life & property, the police personnel had no option but to resort to firing in the air

or on lower part of body of the rioters. A lot of police personnel were seriously injured by violent mob & rioters. In this riot, one injured namely Aaman died due to the gunshot injury caused by the rioters. The present case, consequently, was registered

(c) The accused/applicant conspired and has been constantly instigating the local inhabitants since December,2019 under the garb of peaceful protest against CAA, NRC and NPR. The present applicant and her associates had opened their office near the protest site at Old Bus Stand, Seelampur, Delhi and their core group for meeting and further steps for their protest and riots. The meeting was also attended by several persons including Umar Khalid, Matin Ahmed, Mehmood Pracha, Amannatullah Khan and others. After the above protest site was created, many other protest sites also started simultaneously in different parts of North-East Delhi in pursuance of the conspiracy hatched.

(d) The accused/applicant, in pursuance of the conspiracy, blocked the main Jafrabad Road under Metro Station Jafrabad on 22.02.2020 at around 9.30 PM along with her associates and the local protesters thereby causing a great inconvenience to the general masses at large and crated major problems for the police to maintain law and order. Accordingly, a case FIR No. 48/20 dated 23.02.2020 was registered. The applicant is a named accused along with her associates namely Natasha Narwal, Devangana

Kalita, Subhasini @ Suhasani, Paroma Roy, Rumsha, Suhail, Adnanas, Taslim, Shadab, Guddu Choudhary, Faizan and Kasim Ansari.

(e) In this case, one rioter/accused Sharukh Khan was arrested and he disclosed that the rioters were instigated by many persons including Gulfisha for causing riots and for also pelting stones and firing on police.

(f) On 14.04.2020, the present applicant/accused was arrested in case FIR No. 59/20, P.S. Crime Branch, Delhi dated 06.03.2020, which is registered under sections 124A/302/307/353/186/212/395/427/435/436/452/454/109/114/147/148/149/153A/34 IPC & 25/27 Arms Act & Unlawful Activities (Prevention) Act, being investigated by Special Cell, where also she had disclosed the name of her associates and their involvement in the present case as well. On 23.05.2020, accused persons namely Natasha Narwal along with her associate and roommate namely Devangana Kalita were arrested in case FIR No. 48/20, P.S. Jafrabad, Delhi and later, on 24.05.2020, they were arrested in the present case.

(g) The applicant/accused was physically present at the spot i.e. road block site/protest at 66 Foota Road, under Jafrabad Metro Station, Delhi since beginning i.e. from 22.02.2020 till late evening on 24.02.2020. This road block, later, spiraled into a huge communal riot. During such period, she regularly instigated the local protesters and rioters against CAA & NRC and also instigated them to be violent and use stone, lathi, fire arm on police

& other community if they try to stop them to proceed towards other community area. She was regularly in touch with other conspirators and rioters of different protest and riot sites.

(h) The applicant/accused and her associates by way of their speeches spread misinformation about CAA/NRC amongst the innocent Muslim people and thereby created a surcharged atmosphere. They made the Muslim community believe falsely that they would lose their citizenship and would be put in detention camps. She gave provocative speeches. The applicant was able to create faith in the common public by saying that they are Phd Scholar of JNU and know the law and activity of the Govt. so this is right time to save themselves.

(i) The applicant is also clearly seen in the video clips retrieved from the mobile phone of co-accused/the rioter Azad by the CERT-in, in which the present applicant is seen directing the local rioters regarding the persons who had come to join the protesters/rioters at Jafrabad Metro Station. The above video clips were detected from the mobile phone of arrested rioters indicate that conspirator Gulfisha Fatima @ Gul had mobilized persons from other places also i.e., Jahangirpuri. She was also controlling, instigating and provoking local rioters as well as managing non-resident rioters. The fact that rioters traveled from Jahangirpuri, which is located near Mukarba Chowk/Azadpur and is about 15-18 Kilometers from Jafrabad, clearly demonstrates that the riots were given effect to under a well planned conspir-

acy and Gulfisha Fatima @ Gul was intrinsic part of the conspiracy.

(j) The statements of eye-witnesses, i.e. two protected public witnesses and seven police officials of the different protest sites, recorded under Section 161 & 164 Cr.P.C have shown the role of the present applicant.

There were accounts of two protected witnesses who have stated that the present applicant and her associate of Pinja Tod group were physically present at the different sites and instigated the common people against the CAA & NRC at the different site i.e. Near Old Central Bank, Seelampur, Delhi on 05.01.2020, at Old Bus Stand, Seelampur road side between 15.01.2020 to 22.02.2020 and road blocked site i.e. under Jafrabad Metro Station from 22.02.2020 to 25.02.2020 that they are educated persons and they know that the CAA & NRC are against the Muslim community.

They used code words with their group members to convey secret messages regarding further line of their protest/riot in front of common people. They also gave hate speeches at Jafrabad Metro Station and continuously stayed there till last. In the last week of January 2020, Umar Khalid had participated in private meeting at the office near protest site Old Bus Stand, Seelapur and in the meeting, the present applicant and her associates were present there. Umar Khalid told them that only speeches are not sufficient now Govt. is against Muslim “ Khoon Bahana Padega Aise Nahi Chalega Chakka Jaam Hi Akhri Rasta Hai Hame Sarkar Ko Ghutno Ke Bal Laana Hi Hoga Sanghiyon Ki Sarkar Aise Nahi Maanegi”.

(k) It was submitted that co-accused namely Tafsil has been declared a Proclaimed Offender.

It was, thus, prayed that considering the gravity of the offence and the applicant being part of and having instigated unlawful assembly into committing offences including murder of Aman, the bail application of the accused Gulfisha be dismissed.

6. (a) In the present case, the accused Gulfisha is in custody since 03.06.2020.

(b) The applicant is stated to have participated in and instigated the unlawful assembly which then committed riots and leading to death of Amaan in the present FIR. There are statements under Section 161 Cr.P.C & 164 Cr.P.C including two protected witnesses against the accused Gulfisha regarding incitement and involvement in the case. The co-accused Devangana Kalita and Natasha Narwal have been granted bail in this case and their role is stated to be similar to the present applicant/accused. The witness for all of them are almost the same.

(c) The videos shown in the court by the IO and Ld. Special Prosecutor show her being a part of unlawful assembly and participating in it.

(d) There is nothing to suggest that the witnesses are under threat from the concerned applicant. In any case, two public witnesses are protected and their identity has been concealed. The rest are police personnel.

(e) There is another submission of Ld. Prosecutor that there is another FIR No. 59/20, P.S. Crime Branch, Delhi (Investigated by Special Cell) in which the present applicant Gulfisha is also an accused and thus, applicant should be denied bail on this ground. It is indeed true that applicant is also an accused in the larger conspiracy case bearing FIR No. 59/20. However, the said case is under Unlawful Activities (Prevention) Act and being investigated separately. The present application under consideration is for bail in the present case and not in FIR No. 59/20. As far as FIR No. 59/20 is concerned, we will cross the bridge when we come to it.

(f) The present stage is of bail and not acquittal or conviction.

(g) Nothing is shown to suggest that the applicant is a flight risk.

(h) If co-accused Tafsil has been declared a Proclaimed Offender, then the present applicant can't be refused bail for the act and conduct of Tafsil, who will face consequences under the law.

7. Considering the period of the custody of the applicant/accused in the present case, the ground of parity as regards co-accused Devangana Kalita and Natasha Narwal and in the totality of the facts and circumstances of the case, the present bail application under Section 439 Cr.P.C of applicant/accused is allowed and applicant Gulfisha Fatima @ Gul is admitted to bail on furnishing personal bond in the sum of Rs. 30,000/- with one surety to the like amount subject to the satisfaction of Ld. MM/Link MM/Ld. Duty MM.

(a) The accused shall neither leave the jurisdiction of NCT of Delhi without prior permission of the court nor shall she indulge in any kind

of criminal activity.

(b) She shall also not tamper with any evidence or contact any witness;

(c) She shall attend the court on every date of hearing or as directed by court.

Application is accordingly disposed off.

Copy of this order be mailed to the counsel for applicant / accused, Ld. Prosecutor and the concerned I.O.

(Amitabh Rawat)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 21.11.2020