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

+ BAIL APPLN. 3020/2020

SHAHRUKH @ RINKU

..... Petitioner

Through Mr. Salim Malik, Adv.

versus

STATE

..... Respondent

Through Mr. Amit Mahajan, SPP, Mr. Rajat Nair, SPP with Mr. Shantanu Sharma and Mr. Dhruv Pande, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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27.11.2020

The hearing has been conducted through video conferencing.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of bail in case FIR No.54/2020, for the offences punishable under Sections 147/ 148/ 149/ 302/ 120-B/ 34 IPC and Section 3 of PDPP Act, registered at PS Jyoti Nagar.
2. Learned SPP has opposed the present petition by stating that Information was received that petitioner who was involved in riots at Kardam Puri area in which Deepak was killed and is presently lodged at Mandoli Jail in another case of rioting. On 03.04.2020, petitioner was interrogated at Mandoli Jail and formally arrested in this case. During the investigation, it was established that petitioner was a part of the riotous mob which has caused the death of the deceased Deepak. Petitioner has been identified by the eyewitness Sunil during the TIP proceedings, Sunil has also

seen petitioner inflicting injuries to the deceased.

3. Petitioner has been named by the eyewitnesses Kirti Raj Tiwari, Mohd. Khalid @ Babli, Deepak, Shyam Narain on 12.03.2020 and Sunil on 25.06.2020.

4. It is further submitted that the other three co-accused persons have already been on bail but that was before the TIP proceeding conducted wherein Sunil had identified the petitioner.

5. As per the charge-sheet, role of each accused person and evidence against them is described as under:

S. No.	Name Accused	Role played by Accused	Evidence against Accused
01.	Anwar Hussain s/o Abrar Qureshi	He has actively participated in the riots and seen in the video footages at Kardam Puri Pulia captured by videographer hired by police to cover the protest site.	1. Statement of PWs naming him in their statements. 2. Video footages showing his active participation. 3. Disclosure of co-accused.
02	Kasim s/o Wahid Beg	He has actively participated in the riots and seen in the video footage of PWD CCTV No.6714781 on day of incident.	1. Statement of PWs naming him in their statements. 2. Video footages showing his active participation. 3. Disclosure of co-accused.

03.	Khalid Ansari s/o Sadeen Ansari	He has actively participated in the riots and seen in the video footage of PWD CCTV No.6714781 on day of incident.	<ol style="list-style-type: none"> 1. Statement of PWs naming him in their statements. 2. Video footages showing his active participation. 3. Disclosure of co-accused.
04.	Shahrukh @ Rinku s/o Mohd. Ismail	He has actively participated in the riots.	<ol style="list-style-type: none"> 1. Statement of PWs naming him in their statements. 2. Disclosure of co-accused.

S. No.	Name of Accused	Evidence against accused persons
01.	Anwar	In one video footage of dated 23.02.2020 (video no. 21 & 22), recorded by videographer, hired by police, accused Anwar Hussain is seen as an active participant. In same videos it is also seen that they came from Jafrabad, with proper directions and after seeing videographer, the rioters returned to Jafrabad. This protester group was having a number of persons from Jafrabad, Welcome, and outside of Delhi.

02	Kasim	In another video footage of dated 24.02.2020, CCTV no.6714781 provided by PWD, accused Kasim is leading a mob on service road, Kardampuri pulia with aggression, holding a lathi in his right hand.
03.	Khalid Ansari	In another video footage of dated 24.02.2020, CCTV no.6714781 provided by PWD, accused Khalid Ansari is seen provoking the rioters. He is wearing a cap and then covering his face with a handkerchief. The said camera was intentionally damaged by a rioter after some time, so that no evidence of the rampant violence caused by the rioters was captured in the CCTV. The said person had covered his face to protect his identity.

6. It is not in dispute that accused Anwar Hussain, Kasim and Khalid Ansari have been released on bail and as per the charge-sheet, the role of the said accused persons is graver than the petitioner herein. The statement of Sunil was recorded on 25.02.2020 and statement of other witnesses who claimed to be eye-witnesses were recorded on 12.03.2020 whereas incident took place on 25.02.2020. The other co-accused mentioned above who are on bail they are seen in CCTV footage and their CDR also matched with each other whereas in the case of petitioner neither his CDR matches nor is

he seen in the CCTV.

7. In view of the above, without commenting on the merits of the prosecution case, on parity, this Court is of the view that the petitioner deserves bail.

8. Accordingly, he shall be released on bail on his furnishing a personal bond in the sum of Rs.30,000/- with one surety in the like amount to the satisfaction of the Trial Court/Duty Judge.

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

10. Copy of this order be transmitted to the Jail Superintendent concerned and Trial Court for necessary compliance.

11. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

NOVEMBER 27, 2020/rk