

Momeen vs.state

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SooperKanoon Citation : sooperkanoon.com/1226825

Court : Delhi

Decided On : Nov-25-2019

Appellant : Momeen

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % + Reserved on :

14. 11.2019 Pronounced on :

25. 11.2019 BAIL APPLN. 2767/2019 MOMEEN

... Petitioner

STATE Through Mr. Hemant Choudhary, Adv. versus Respondent Through Mr. Amit Ahlwat, APP for State with ASI Pavinder Kumar. Mr. Sachin Dev Sharma, Adv. for complainant. + BAIL APPLN. 2769/2019 AMIR AMEEN

... Petitioner

STATE Through Mr. Hemant Choudhary, Adv. versus Respondent Through Mr. Amit Ahlwat, APP for State with ASI Pavinder Kumar. Mr. Sachin Dev Sharma, Adv. for complainant. Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 1 of 6 + BAIL APPLN. 2770/2019 TAQVEEM

... Petitioner

STATE Through Mr. Hemant Choudhary, Adv. versus Respondent Through Mr. Amit Ahlwat, APP for State with ASI Pavinder Kumar. Mr. Sachin Dev Sharma, Adv. for complainant. CORAM: HON'BLE MR. JUSTICE RAJNISH BHATNAGAR ORDER1 By this common order, I shall dispose of three bail applications bearing No.2767/2019, 2769/2019 and 2770/2019, moved by the petitioners namely Momeen, Amir Ameen and Taqveem respectively under Section 438 read with section 482 Cr.P.C for grant of anticipatory bail to them in case FIR No.150/2019, U/s 308/195A/34 IPC registered at Police Station- Chandni Mahal.

2. Arguments heard. Record perused. I have also perused the status report filed by the state.

3. It is submitted by the Ld. counsel for the petitioners that the petitioners have been falsely implicated by the police at the instance of Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 2 of 6 the complainant Zahid-Ur-Rehman. He further submitted that no such incident as alleged by the complainant had taken place on 16.09.2019.

4. He further urged that on the alleged time and dates of the incident i.e. 15.09.2019 and 16.09.2019, the petitioners viz. Momeen, Amir Ameen and Taqveem were not present at the alleged place of incident. He further urged that on 15.09.2019 and 16.09.2019, petitioner Momeen was present at the shop namely Aslam Chicken at Jama Masjid Delhi where he is working as a Chef. Photographs of the CCTV footage of the said shop also placed on record by the Ld. counsel for the petitioners. In respect of petitioner Amir Ameen, it is submitted by the Ld. counsel for the petitioners that he is a student of BA (Programme) and regular student of Zakir Husain College and is enrolled with Life Insurance Corporation for LIC agent and on 15.09.2019, petitioner Amir Ameen was at his home and on 16.09.2019 he was attending the training session at LIC office Asaf Ali Road at the time of alleged incident. As far as petitioner Taqveem is concerned, it is submitted by the Ld. counsel for petitioners that on 15.09.2019 petitioner Taqveen was at his home and on 16.09.2019 he was at Tis Hazari Court in mediation centre where he came alongwith his sister in law (bhabi) in connection to her case titled as Mohd Ali Vs. Naushad Ahmad & Ors. He further

submitted that on 16.09.2019 petitioner Taqveem alongwith her sister-in-law reached Sh. Ashok Arya Advocate at Tis Hazari Court between 12:00 a.m to 12:15 p.m and remained present throughout the proceedings from Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 3 of 6 2:30 p.m. to 3:10 p.m and they left the central hall Tis Hazari at 3:15 p.m.

5. It is further urged by the Ld. counsel for the petitioners that all the petitioners have nothing to do with the alleged offence of 15-16.09.2019. He further urged that the petitioners are not required for any custodial interrogation purposes.

6. On the other hand, while opposing the bail applications, Ld. APP for the State assisted by the Ld. counsel for the complainant submitted that the allegations against the petitioners are grave and serious in nature; they are not joining the investigation and sending complaints stating that the present FIR has been falsely registered against them. It is further submitted by the Ld. Addl. PP for the state that during the course of inquiry, it was also revealed that several criminal cases are already pending trial between the complainant and the petitioners.

7. With regard to the contention of the Ld. counsel for the petitioners that on the alleged time and dates of the incident i.e. 15.09.2019 and 16.09.2019, petitioners were not present at the place of the incident, it is submitted by the Ld. Addl. PP for the state that the distance between the place of the incident and the different places where as per the Ld. counsel for the petitioners, the petitioners were present separately at the time of the incident is very less and the same can be covered within few minutes by using any vehicle. He further submitted that as per Cell ID location of mobile number 9711474790 Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 4 of 6 of petitioner Taqveem, he left Tis Hazari court at about 15:26 Hrs. and alleged time of incident is 15:45 Hrs.

8. He further urged that the petitioners are absconding to avoid their arrest and their custodial interrogation is required to recover the weapon of offence. It is further urged by the Ld. APP for the state that the investigation of the case is at its initial stage and the petitioners are involved in two more similar cases which they committed by adopting similar modus operandi.

9. The allegations against the petitioners are that on 15.09.2019, at about 11:00 p.m when the complainant was going towards Turkman Gate, petitioners met him and threatened him not to give evidence in case FIR No.

U/s 308/452/4

IPC registered at PS Chandni Mahal which was coming up for hearing in the trial Court on 17.09.2019. It is also the case of the prosecution that the petitioners on 16.09.2019, at about 3:45 p.m. attacked the complainant when he was going towards Kamla Market from Shankar Gali from his backside with sharp edge weapon as a result of which the complainant received injury on his neck behind the ear. It is also pertinent to mention here that as per the complainant two-three persons had attacked him from behind with some sharp edge weapon as a result of which he fell unconscious on the ground and was removed to L.N.J.P. hospital. Thereafter, after getting discharged from the hospital, since the petitioners had threatened him on 15.09.2019 and since according to him they had tried to kill him on previous occasion also, therefore, he had placed his suspicion on these three petitioners for the attack on Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 5 of 6 him on 16.09.2019. It is also pertinent to note that many cases are also pending between the complainant and the petitioners and father of the petitioners.

10. Therefore, keeping in view the facts and circumstances of the case, all the said three bail applications are allowed and it is ordered that in the event of arrest, all the petitioners namely Momeen, Amir Ameen and Taqveem be released on bail, on their furnishing a personal bond in the sum of Rs. 20,000/- each with one surety each of the like amount subject to the satisfaction of the IO/SHO concerned. However, they are directed to join the investigation as and when called by the IO of the case. All the said three bail applications are disposed of accordingly.

11. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case. RAJNISH BHATNAGAR, J NOVEMBER25 2019 Sumant Bail Appln. Nos. 2767/2019, 2769/2019 & 2770/2019 Page 6 of 6