

Present : **Sri S.K. Kabra**
Addl. Sessions Judge (FTC)
Dibrugarh

Criminal Misc. (B) Case No. 273/2022

ORDER

22.07.2022

1. This bail petition u/s 439 of CrPC is filed for granting bail to the accused Shri Samsullah Khan, who is in jail custody since 08.07.2022, in connection with Dibrugarh P.S. Case No. 390/2022 registered under section 306 r/w section 34 of IPC. Later, vide order dated 13.07.2022 sections 120(B) and 307 of IPC were also added.

2. Case Diary of aforesaid P.S. was already before this Court, which was called for Criminal Misc. (B) Case No. 273/2022 filed by the co-accused Shri Baidullah Khan.

I have heard the parties on 21.07.2022 and today the matter is fixed for orders.

3. Ejahar was lodged by complainant Shri Kailash Kumar Bagaria on 07.07.2022, stating that owing to all misdeeds, physical and mental torture meted out to his family and Mr. Vineet Bagaria by Shri Baidullah Khan, Shri Sanjay Sharma and Shri Nishant Sharma, his son Vineet Bagaria lost his life on 07.07.2022.

4. Upon receipt of said ejahar, aforesaid P.S. Case was registered by the Dibrugarh O/C.



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5. It is the case of the accused herein that he is neither the FIR named accused person nor the name of accused person is appearing in entire case record. It is stated that accused is being arrested only because he is younger brother of the co-accused person Shri Baidullah Khan. It is also the case of accused person that despite pendency of suit for eviction filed by the complainant against one of the co-accused person from the shop/premises; the complainant every now and then visits the shop of the co-accused and asks him to evict the shop using filthy language. It is stated that Late Vineet Bagaria (who committed suicide) has not mentioned the name of the instant accused person anywhere. It is submitted that accused person is innocent and has become victim of the circumstances. It is also submitted that accused is ready to furnish suitable surety in case of his bail.

6. On the other hand, learned Addl. PP has opposed the bail petition on the ground that the above-named accused person is one of the miscreants of the mob, who terrorized the complainant and Vineet Bagaria (since deceased).

7. Record reveals that I.O. of the case had filed bail objection in Criminal Misc. (B) Case No. 273/2022, wherein it is stated the above-named accused person and other co-accused persons of the aforesaid P.S. Case are having a history of criminal intimidation. It is also stated that new chapters of crime of the accused person is unfolding every day. Instant accused person and other co-accused persons are also wanted in other cases.

8. I have perused the case diary and accompanying documents.


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9. It appears from the record that the complainant had given his shop/premises on rent to Shri Sanjay Sharma for carrying out two-wheeler parts business. However, subsequently, Shri Baidullah Khan joined Shri Sanjay Sharma into said business. It appears that they were into litigation for said premises.

10. It is alleged by the complainant that Shri Baidullah Khan and Shri Sanjay Sharma were trying to grab the property of the complainant. It is also alleged that Shri Baidullah Khan, Shri Sanjay and his associates were giving life threats to complainant, his son (Vineet Bagaria) and also threatening to kill his wife and kidnap and rape his daughter.

11. Record reveals that on 01.07.2022 Vineet Bagaria (since deceased) had made a written complaint to O/C Dibrugarh P.S. stating that Shri Baidullah Khan and Shri Sanjay Sharma had given life threats to him and his father (complainant), and also threatened to kill his sister. It is also stated that therein both Shri Baidullah Khan and Shri Sanjay Sharma armed with harmful objects came to their house to kill them and asked them to come out from the house with obscene words. It is also stated therein that they threatened to demolish their house and grab the property.

It appears from record that copy of said complaint was also tweeted to Chief Minister of Assam and also DGP of Assam.

12. It is also alleged by the complainant that on 04.07.2022 at about 5:30 pm, accused Shri Baidullah Khan, Shri Nishant Shanrma and Sanjay Sharma along with few others entered into premises of the complainant and tried to put fear to kill them and also tried to demolish their premises. The miscreants used obscene words (filthy languages). Due to hue and cry by the family members of the complainant, the local people gathered and the


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miscreants fled away. Thus their life was saved. Accordingly, on 05.07.2022, complainant made written complaint to Dibrugarh police.

Complainant in his statement before police has specifically stated that few days prior to the incidence, the instant accused person along with three others had gone to the house of the complainant and had threatened.

13. I have also watched one video of said Vineet Bagaria (since deceased) annexed with the case diary. It appears that said video was made by Vineet Bagaria just before committing suicide. In that video Vineet Bagaria has stated that he got frustrated of life and he is ending his life for the shop downstairs. It is stated therein that they were not paying rent since last 6-7 years and now started threatening and many other things. He stated that he cannot handle all this anymore. He also stated that on that day many miscreants came in front of their house, hurled abuses with filthy languages and threatened them. He and his father were threatened by Shri Baidullah Khan and Shri Sanjay Sharma even over phone.

14. Record reveals that I.O. has recorded statement of many witnesses including eye witnesses. The statement of said witnesses also supports the version of the complainant and Vineet Bagaria (since deceased).

In fact, said witnesses have categorically stated that on 04.07.2022, in the evening time, the instant accused with other boys were present in front of the house of the deceased and they were threatening the complainant and Vineet Bagaria and hurling abusive/filthy languages. One of the witnesses has categorically stated that instant accused person had in clear words had threatened to destroy/vandalize the H₂O bar, in which Vineet

Bagaria also had stake. Even the instant accused person was threatening and using filthy languages over phone to the complainant.

It appears from the statement of the witnesses that on 04.07.2022 a terrifying atmosphere was created by all the accused persons of aforesaid P.S. case including Shri Samsullah Khan (who came in mob) in front of the house of Vineet Bagaria.

15. It emerges from the material on record that Shri Baidullah Khan and Shri Sanjay Sharma were continuously harassing, torturing and threatening Vineet Bagaria and his family for the shop/premises; however, the incident of 04.07.2022 had terrorized Vineet Bagaria.

It appears that disturbed with ongoing disputes and scared of threats of the all the accused persons of this P.S. Case, who comes in mob, and not getting any help from any corner, Vineet Bagaria became hopeless and perceived that he had no other option except to commit suicide.

16. The video of the Vineet Bagaria (made by him just before his suicide), the complaints filed by Vineet Bagaria and his father, coupled with the statement of witnesses (including eye witnesses), brings out a prima facie case against the accused person.

17. I am of the view that I.O. has collected sufficient incriminating materials against the accused person Shri Samsullah Khan. Moreover, the investigation is at nascent stage. Other co-accused persons are still absconding and there is every chance of above-named accused person fleeing from the justice if released on bail. Also it appears from record that the instant accused person is also involved in other cases of intimidation/threatening.


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18. Considering all the above, including the gravity of offence, **I deem it fit to reject the bail petition of the accused person namely Shri Samsullah Khan.**

Send a copy of this order to Dibrugarh P.S. for record.

Accordingly, the bail petition is disposed of.


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