

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

Application No. 1163-2020

FIR No.59/20

PS- Crime Branch (Investigated by Special Cell)

U/S. 13/16/17/18 UAPA, 1967

302/307/353/186/212/395/427/435/436/452/454/109/114/147/148/124A/153A/

120B IPC, 3, 4 of PDPP Act, & 25/27 Arms Act

State Vs. Gulfisha Fatima

31.08.2020

In view of the office order no. 3894-3914Judl./SHD/2020 dated 16.08.2020 of the Ld. District & Session Judge, Shahdara District, Karkardooma Courts, Delhi issued in the wake of Corona Virus (Covid-19) pandemic, the present application was put up before the undersigned through video conferencing using CISCO WebEx app. Today, case is fixed for orders.

ORDER

1. Vide this order, I shall dispose off an application moved on behalf of applicant/accused under Section 167 (2) of Cr.P.C for grant of statutory bail.
2. Arguments on the application heard on behalf of both Ld. Counsel for applicant/accused and Ld. Prosecutor.
3. Record perused.
4. It was submitted in the application that accused/applicant Gulfisha Fatima was arrested on 11.04.2020 and is in judicial custody since 12.04.2020 and further on 10.08.2020 i.e. the filing of the present application, she has been in judicial custody for 120 days. The bail is sought on the ground that report under Section 173 Cr.P.C has not been filed by the police within time period of 90 days. It was further stated that the prosecution had preferred an application under Section 43D (2) (b) of the Unlawful Activities (Prevention) Act, 1967 before Ld. ASJ-02,

(2)

New Delhi District, Patiala House Courts, Delhi and the application was allowed vide order dated 29.06.2020 whereby the investigating agency was given time till 15.08.2020 for filing the charge-sheet. In pursuance of the said order, the custody of the accused has been extended from time to time. It was specifically stated that the court of Ld. ASJ-02 was not competent to entertain and allow the application under Section 43D (2) (b) of Unlawful Activities (Prevention) Act, 1967. Hence, it was prayed that statutory bail in the present case may be granted to the accused/applicant.

5. Reply was filed on behalf of the State stating that applicant seeks to deny the competence of Ld.ASJ-02 (Ld. Predecessor Court) to decide the application for extension under Section 43D (2) (b) of Uulawful Activities (Prevention) Act, 1967 and to consequently hold that the order dated 29.06.2020 was bad in law. The order dated 29.06.2020 is a judicial order which has not been challenged in accordance with law. It was prayed that application is without merit and be dismissed.

6. (a) The present case involves offences under Section 13/16/17/18 UAPA, 1967;302/307/353/186/212/395/427/435/436/452/454/109/114/147/148/124A/153 A/ 120B IPC, 3, 4 of PDPP Act, & 25/27 Arms Act.

(b) In the present case, as stated by the counsel for the accused, the accused/applicant Gulfisha is in judicial custody since 12.04.2020.

(c) Vide order dated 29.06.2020, Ld. ASJ-02, New Delhi District, Patiala House Courts, New Delhi, on an application of prosecution for extension of time

(3)

for concluding investigation under Section 43D (2) (b) of Unlawful Activities (Prevention) Act, 1967 qua accused Meeran Haider, Gulfisha and Tahir Hussain was allowed and permission to conclude the investigation till 29.08.2020 was allowed.

(d) Thus, when the period to investigate has been extended till 29.08.2020 and accused/applicant remanded to judicial custody under the provisions of Unlawful Activities (Prevention) Act, 1967 by Ld. ASJ-02, NDD, Patiala House Courts, Delhi, there arises no reason for the applicant to state that the charge-sheet has not been filed on 10.08.2020. The applicant seeks to challenge the order dated 29.06.2020 for extension of period of investigation by Ld. ASJ-02, NDD, Patiala House Courts, New Delhi (Ld. Predecessor of this Court) stating that it was not competent to pass any order. However, such an assertion cannot be made before this court. The order dated 29.06.2020 was passed and as per the said order, the period of investigation has been extended till 29.08.2020 (later, it was also extended). Hence, there arises no occasion for consideration of the question of statutory bail on the ground that final report has not been filed.

In view of the above discussion, the present application Section 167 (2) of Cr.P.C is without merit and is dismissed. Application is disposed off.

7. Copy of this order be also sent to the A.O (Judicial), who shall supply the same to the parties in terms of the office order no.2204-2221/D&SJ, Shd/KKD/ Delhi dated 20.04.2020 of the Ld. District & Sessions Judge, Shahdara District, Karkardooma Courts, Delhi.

(AMITABH RAWAT)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 31.08.2020