

IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLICATION NO. OF 2016

In the matter Of ;-

Kahhaiya Kumar

Versus

State

FIR NO:-110/2016
UNDER SECTION:-124A/120B/34/147/149
POLICE STATION:- VASANT KUNJ NORTH

STATUS REPORT

1. Brief facts of the case are that on 08.02.2016, a group of students had proposed to organize a cultural evening at Sabarmati Dhaba in JNU campus on 9/02/2016. An application for obtaining permission from the JNU Authorities was submitted on 08/02/16 on the prescribed form to the Dean of Students Welfare, JNU with a title **"Poetry Reading – The Country Without Post"** by the co-accused of the petitioner viz. Umar Khalid, Anirban Bhattacharya, Aswathi and Komal.. The permission was granted to them accordingly from 05:00 PM to 07:30 PM.

On 09.02.16, many posters were found put up at the venue near Sabarmati Dhaba copy of the same is annexed

- 2. On 09.02.16, the JNU authorities got the information that this group has obtained permission to hold the function by **GIVING FALSE INFORMATION TO THE JNU AUTHORITIES** and under the guise of “cultural function” some other anti-national activities were to commence.

Meanwhile, some student leaders including one Saurabh Kumar, Joint Secretary, JNUSU informed in writing to the Dean, Students Welfare that the proposed programme which is going to be held at Sabarmati Dhaba from 05:00 PM onward for which posters **AGAINST THE JUDICIAL KILLING OF AFZAL GURU & MAQBOOL BHATT HAVE BEEN PUT UP AT ALL HOSTELS AND THESE ACTIVITIES WILL DISRUPT THE PEACE AND HARMONY OF THE CAMPUS.** He, therefore, requested that necessary action should be immediately taken to stop such activities etc.

Based on both the inputs, the JNU authorities, after due deliberations, cancelled the permission granted for the proposed “cultural evening” and informed the organizers. The letter was also sent to SHO PS Vasant Kunj (North) alongwith complaint of Saurabh Kumar Sharma and copies of the posters by the Chief Security Officer, JNU about the apprehension of breach of peace at the campus. On receipt of this information, a component of local police under the supervision of SHO Vasant Kunj North reached at the gate of JNU campus and remained in touch with the Security Officers of the JNU. As per the practice, the police force decided not move inside the JNU complex without

permission from the concerned authorities of the JNU until the situation demands police intervention.

3. Chief Security Officer sent his security team at about 04:45 PM at the venue to explain the organizers regarding cancellation of the permission. But by the time, the organizers in connivance with the petitioner have already made preparations to install mike and put up above posters at the venue of the proposed programme. The security staff of JNU did not allow them to fix the mike and other equipments which were followed by arguments between the organizers and the security staff. But students who had gathered started shouting slogans and in the meanwhile the strength of the gathering started increasing. The JNU staff and other witnesses present at the said site informed the investigating agency during investigation conducted so far that the organizers and their supporters were shouting slogans like

1. अफजल गुरु मकबूल भद्र जिंदाबाद
2. कश्मीर की आजादी तक जंग रहेगी जंग रहेगी
3. भारत की बर्बादी तक जंग रहेगी जंग रहेगी
4. जिस कश्मीर को खून से सींचा वह कश्मीर हमारा है
5. हम क्या मांगे आजादी बंदूक से लेंगे आजादी
6. Go India go back
7. Indian Army मुर्दाबाद.
8. भारत Tere tukkde होंगे - inshaallaha inshaallaha

9. कश्मीर के नौजवानो संघर्ष करो हम तुम्हारे साथ हैं।
10. कश्मीर की महिलाए संघर्ष करो हम तुम्हारे साथ हैं।
11. अफजल की हत्या नहीं सहेंगे नहीं सहेंगे।
12. कितने अफजक मारोगे हर घर से अफजल निकलेगा।
13. कितने मकबूल मारोगे हर घर से मकबूल निकलेगा।
14. राइट तो सेल्फ देतेर्मिनटीओन, लॉन्ग लिव लॉन्ग लिव।
15. कश्मीर की आजादी की लड़ाई को लाल सलाम लाल सलाम।
16. कश्मीर मे लडे नौजवानो को लाल सलाम लाल सलाम।
17. सजा ए मौत को रद्द करो रद्द करो।
18. एएफएसपीए को रद्द करो रद्द करो।
19. कश्मीर मांगे आजादी लडकर लेंगे आजादी।
20. कश्मीर की आजादी तक जंग रहेगी जंग रहेगी।
21. हम क्या चाहते आजादी।
22. आधी रात को आजादी, सुनसान सडक पर आजादी।
23. कश्मीर मांगे आजादी, केरल मांगे आजादी।
24. असम मांगे आजादी।
25. लडकर लेंगे आजादी।
26. हम क्या चाहते आजादी, हक हमारा आजादी।
27. जो तुम न दोगे तो लड कर लेंगे आजादी।
28. छीन कर लेंगे आजादी।

29. अफजल की हत्या नहीं सहेंगे नहीं सहेंगे।
30. बंदूक की दम पे लेंगे आजादी।
31. On the other hand, a group of 20/30 students had also gathered near 24X7 Dhaba and started shouting slogans against the group led by the petitioner who is the President of JNU student Union and also by the Secretary of the said Union.

This slogan shouting by both the groups continued till about 07:30 PM. In the meanwhile, at about 07:25 PM, a PCR call regarding quarrel between two groups of students inside the JNU campus near the Sabarmati Dhaba was received at PS Vasant Kunt (North). As the police officials were already present at the JNU gate, they contacted the Chief Security Officer and the JNU administration about the situation who in turn informed that the atmosphere inside the campus was highly charged and there is apprehension of breach of peace and requested for police intervention.

On this, SHO PS Vasant Kunj (North) alongwith staff present at the gate rushed to the spot where it was found that both the groups had already started marching towards Ganga Dhaba from Sabarmati Dhaba. They also found that the other group of students who were opposing anti India slogans and display of the placards containing photographs of Afzal Guru and Mabool Bhatt were raising pro-India slogans were at the front with a strength of around 50/60 followed by the other led by the petitioner group as aforesaid who were around 200-300. Both the groups were shouting slogans continuously.

The local police positioned themselves between both the groups while they were on the move assisted by the security staff of the JNU, who had already made a human chain separating both the groups. The shouting of anti-national/constitutional slogans mentioned above continued unabated which were opposed/countered by the other group of students by shouting slogans in support of the nation. In this process, the students from both the groups had at many times engaged in verbal as well as physical jostling and heckling. This situation led to law and order problem which disturbed the public order in JNU campus.

32. However, with great difficulty, the local police alongwith the security personnel of the JNU managed to control the situation. At about 08:30 to 09:00 PM, when both the groups reached Ganga Dhaba, some of the students leaders including the petitioner addressed the unlawful assemble and thereafter they dispersed.

33. On 10.02.16, a video footage about JNU incident, which happened on 09.02.16, was telecast on the national channel Zee News in which it was shown that some students were shouting anti-national slogans [which are referred above] in JNU Campus. Taking note of the video footage the Investigating Officer sent a requisition to the Editor, ZEE News to provide the unedited video footage of the same immediately. The Zee News channel gave the copy of the unedited video footage on 11.02.16. On examination of the video footage and the contents of the posters and the

complaint forwarded by Chief Security Officer, JNU, the local police, after due examination, registered a case being FIR No. 110/16 u/s 124A/34 IPC [the present FIR] and investigation was taken up. It is relevant to clarify that this unedited video footage is not the footage which is being debated as "doctored" in various sections including petitioner as alleged by the media. But it is a totally different and contemporaneously recorded raw unedited video footage. However, video is not the sole evidence on the basis of which the investigation is proceeding with.

34. On scrutiny of the video footage and the statements of the natural witnesses present at site which includes JNU authorities, the investigating team identified the students who were leading the procession, were found shouting slogans, raising arms in support of the slogans and participating in the unlawful procession. The slogans were anti-national, anti-constitutional, against the organs of the Government and against the sovereignty and the integrity of the nation. The presence and active role of the petitioner is also established during the investigation conducted so far.
35. Besides, after enquiry by High Powered Internal Enquiry Committee of JNU, following 08 students namely Syed Umar Khalid, Anirban Bhattacharya, Ashutosh Kumar, Rama Naga, Anant Prakash Narayan, Kanhaiya Kumar, Aishwarya Adhikari, Shweta Raj have been suspended from the University. This is an independent Enquiry, the report of which is given to the Investigation Officer. The internal

enquiry of the JNU authorities had mentioned about the accused persons having forcefully holding of the event even when permission to hold was withdrawn by the Dean Students Welfare, creating law and order situation in the campus at Sabarmati and Ganga Dhaba and also shouting anti-constitutional slogans and derogatory remarks against the nation etc.

36. During the course of investigation, Kanhaiya Kumar, President of JNUSU, the petitioner herein was apprehended from outside Brahamputra Hostel on 12.02.16 afternoon and produced before the Ld. MM Loveleen Singh within 24 hours, Patiala House Court and was made aware of grounds of arrest. The Ld MM, after viewing the video footage and considering the statements of some natural eye-witnesses, remanded him for three days police custody which was extended further for two more days. After the expiry of the police remand, accused Kanhaiya Kumar, the petitioner herein was produced before the Ld. MM at Patiala House Court on 17.02.16 from where he was sent to judicial custody. The Investigation Officer intends to move an appropriate application for the petitioner's further police remand at an appropriate stage of investigation within the statutory time prescribed to unearth any larger conspiracy.

In the meanwhile, a request letter was also sent to the Vice Chancellor, JNU to produce the other co-accused of the petitioner who were the architects of the programme and

also those who participated in anti-national slogans to join police investigation.

37. Further investigation of the case is in progress and efforts are being made to apprehend the remaining accused who had absconded after registration of this case. That during the course of investigation statements of various eye-witnesses who were found present on the spot, were recorded. It has come during the course of investigation that Accused Kanhhaiya, the petitioner herein not only participated in the said events but actually organized the same in connivance with other Accused persons. During the course of investigation it has been revealed that the Accused persons were holding Posters and pamphlets which were not only distributed by them throughout the Campus on 8-2-2016 but also distributed the same on 9-2-2016 when the aforesaid incident occurred. A copy of the said posters and pamphlets is produced with the present Status Report. The language of the said posters itself falls within the mischief of substantive offence punishable under Section 124-A Indian Penal Code.

38. During the course of interrogation the petitioner did not cooperate at all. It is submitted that petitioner is the President Student Union and other co-accused Rama Naga is the Secretary of the same student Union. The Accused Kanhhaiya is a matured person and is staying in JNU since 5-6 years. It is submitted that during the course of investigation, the Investigation Agency intends to unearth

larger conspiracy behind the aforesaid seditious act of the accused persons. It is an open secret that the aforesaid conduct of holding an event on 9-2-2016 has not only ramification within India it has an international impact as well. The investigation of the present case is on very primitive stage and in case the liberty of Bail is granted to the petitioner, the very line of investigation would get adversely affected.

It is pertinent to mention here that shockingly in the incident dated 9.2.2016 records the presence of foreign with their mouths covered elements which sufficiently come during the course of investigation and the Investigation Agency is looking for linkage between the petitioner, his co-accused and the said foreign elements who were hiding their identity by covering their faces.

What investigation is yet to be done

- (i) The petitioner who himself claims to be "a public figure" and has roots in one of the largest universities in the country since five to six years is likely to commit same / similar offences if released on bail.
 - (a) The investigating agency is yet investigating the source of finance for all the activities which has resulted into the alleged offence in question.
 - (b) The investigating agency is also investigating as to whether the incident/s which took place in JNU by the petitioner and his co-accused and the activities which are going on after the arrest of

the petitioner is a part of any larger criminal conspiracy or not.

(c) The investigating agency is also examining the CCTV footage of the CCTV cameras which are provided by the University to analyse and investigate as to whether any person with a possible anti national background entered and / or stayed in the complex which may have a direct nexus with the commencement of a possible anti India movement in the country since some persons hiding their face are found to be present.

(ii) After the seditious act of the petitioner and his co accused persons, the said anti national perception has percolated in other parts of the country and there are stray instances wherein processions were taken out "*honouring*" the "*martyrdom*" of Afzal Guru, Makbool Bhat etc. If the petitioner is released on bail, he can become a relying point to encourage such anti India movements which would not only spread disaffection but would also be contemptuous since the conviction recorded by the competent courts including the Hon'ble Supreme Court, is termed as "*judicial killing*" which, according to the petitioner and co-accused, persons, is the result of "*Brahmanical collective conscience*".

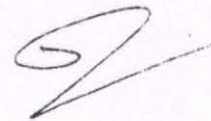
(iii) The JNU is one of the largest universities of the country and thousands of students are studying there. The investigating agency is investigating as to the persons and organizations behind such non educational activities in the campus and the object behind it in larger national perspective.

(iv) If the petitioner is released on bail, it would send a very wrong signal to the students community across

the country that such anti India activities can be conducted with immunity and eventually one comes out after imprisonment of couple of weeks/days.

- (v) If the petitioner is released on bail, he may influence the witnesses and also hamper the investigation.
- (vi) If the petitioner released on bail he may create law and order problems by conducting meetings in his support hampering arrest of other accused persons.
- (vii) Investigation is still in progress and in the initial stage.

It is therefore most respectfully prayed that bail application of the accused may be dismissed.



Prabhu Dayal
Investigation Officer
P. S. Vasant Kunj, North

LIST OF RELIANCE :-

- a) The King Emperor vs Sadashiv Narayan Bhale Rao [1947 MW NCr 54 PC, LR 74 IA 89]
- b) Romesh Tapper vs State of Madras [1950 SCR 594, AIR 1950 SC 124]
- c) Kedarnath Singh vs State of Bihar [AIR 1962 SC 955, 1962 Suppl (2) SCR 769]
- d) Balwant Singh & ors. vs State of Punjab [1995 (3) SCC 214]

- e) Bilal Ahmed Kalu vs State of A.P. [1997 (7) SCC 431]
- f) Nazir Khan vs State of Delhi [2003 (8) SCC 461]
- g) Ramesh Kumar vs State Govt. of NCT [2015 SCC (online) Del 13466]
- h) Gopal Krishan Agarwal vs State [2014 SCC (online) Del 4483]
- i) State of Rajasthan vs Shiv Charan & ors [2013 (12) SCC 76]
- j) S.M. Muddassir vs State [2002 III AD (Cr.) DHC 44]