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

+ **BAIL APPLN. 1946/2015**

Date of Decision : September 21st, 2015

DILIP @ MOGLI

..... Petitioner

Through: Mr.A.K. Pandey, Adv.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Ms.Manjeet Arya, APP
for the State.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present application has been filed by the petitioner under Section 439 read with Section 482 of the Code of Criminal Procedure, 1908 for the grant of bail in FIR No.650/2014, Police Station-Preet Vihar, under Sections 307, 384 read with Section 34 of the Indian Penal Code, 1860 and Sections 27, 54 and 59 of the Arms Act, 1959.

2. The allegations levelled against the accused are that on 06.10.2014 at about 10.00 p.m., when the complainant, namely, Rajiv Jain @ Raju was coming on his motorcycle to his house and reached near V3S Mall, the petitioner and his associate Yogender Tyagi stopped the complainant and asked for Rs.8,000/-. When the complainant refused to give the money, both the accused took out pistol and the petitioner/accused- Dilip fired a gun shot which hit the complainant on his thigh. Some unknown person informed the police on 100 number and the complainant was taken to the hospital by the police. On the basis of the statement of the complainant, FIR was registered.

3. During investigation, the crime spot was got inspected through the Crime Team. The motorcycle of the complainant and one empty cartridge shell were seized from the said spot. The petitioner/accused was arrested and he confessed his involvement in the present case. The pistol was recovered from his possession. The seized articles were sent to the Forensic Science Laboratory. Co-accused Yogender Tyagi was kept in Column No.12 as there was no sufficient evidence

against him. After conclusion of investigation, charge sheet was filed in the Court.

4. The argument advanced by the counsel for the petitioner is that the petitioner is in judicial custody since 07.10.2014. The petitioner is innocent and residing with his wife and minor son. The earlier bail applications moved by the petitioner/accused have been dismissed. The FSL report has not yet been filed by the prosecution. The petitioner is the only bread earner in his family. No public witness was joined in the investigation despite the place of incident being a busy road.

5. In support of the arguments, counsel for the petitioner relied upon the judgment in the case of *Nimeon Sangma and others v. Home Secretary, Govt. of Meghalaya and others AIR 1979 SC 1518* in which the Hon'ble Apex Court while dealing with a petition for issuance of a writ of habeas corpus observed that there are large number of cases where detention for considerable periods, without the trial having even commenced, is being suffered by various persons. Criminal justice breaks down at a point when expeditious trial is not attempted while the affected parties are languishing in jail.

6. The status report has been filed by the State and it has been argued by the learned APP for the State that the petitioner/accused is of bad character and is involved in a number of criminal cases. As per the report filed by the State, the petitioner is found involved in 22 criminal cases. The learned APP has vehemently opposed the bail application of the petitioner.

7. In the present case, the allegations levelled against the petitioner are serious in nature that he fired a gun shot at the complainant while extorting money from him. The gun shot hit the complainant's thigh. It is matter of record that the charge sheet has already been filed.

8. The FSL report is yet to be received and filed. The contention of the petitioner that the trial is not proceeding further in the absence of FSL report, is not a ground to enlarge the petitioner/accused on bail. In view of seriousness of allegations that the petitioner/accused has made an attempt on the life of the complainant, this Court do not find any ground to enlarge the petitioner on bail. The petitioner cannot get any help/assistance from the judgment in the case of *Nimeon Sangma* (supra).

9. Application is accordingly dismissed. However, the petitioner/accused is at liberty to move the application for the grant of bail after order on consideration of charge. It is made clear that the observations made shall not affect the merits of the case.

P.S.TEJI, J

SEPTEMBER 21, 2015
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