

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

Judgment delivered on : November 20, 2015

+ BAIL APPLN. 2003/2015

AAMIR @ JAKIR @ BUDDHA Petitioner

Through Mr.R.K. Tarun, Adv.

versus

STATE NCT OF DELHI Respondent

Through Mr.Satya Narayan, APP.
SI Jagbir Singh, PS New Usmanpur.

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

JUDGMENT

P.S.TEJI, J.

1. The petitioner has filed the present bail application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 for seeking bail in a case registered under FIR No.429/2015 under Section 302/307/34 read with Section 27/54/59 of Indian Penal Code, Police Station New Usmanpur, Delhi.

2. The allegation levelled against the petitioner is that on 13.04.2015 at around 10.15 PM, some altercation between the petitioner and other co-accused persons took place and the petitioner

fired at injured – Abdul Hamid @ Millu and deceased Javed. The present case was registered on the statement of Abdul Hamid @ Millu recorded under Section 161 of Cr. P.C., in which he deposed that at around 10.30 PM, quarrel took place between Aamir, Arshad and Nasim with him and Javed. The petitioner - Aamir told Arshad and Nasim that “Beat them all, finish them all” and thereafter, both of them took out pistols and started firing and bullet of Aamir hit Javed, who fell down and bullet of Arshad missed him.

3. The petitioner had also moved the bail application before the learned Additional Sessions Judge, North East, KKD, Delhi, which was dismissed vide order dated 03.09.2015, which is impugned in the present petition.

4. Mr. R.K. Tarun, Advocate appears on behalf of the petitioner and submits that the prosecution has concocted a false story that the petitioner had shot dead the deceased Javed on 13.04.2015, however, no recovery of any weapon has been effected on the petitioner. Even one bullet tip which got recovered was not identified and nothing incriminating qua the petitioner is shown by the prosecution.

5. It is further contended on behalf of the petitioner that the

injured witness – Abdul Hamid @ Millu has been convicted in a case and was released on parole and thus he is a known BC of the area and therefore the possibility of him being the murderer in the present case cannot be ruled out. It is further submitted that there is absence of any enmity or motive qua the applicant to cause death of deceased.

6. Counsel for the petitioner further argued that the charge sheet in the case has been filed and the petitioner is languishing in jail since 05.05.2015. It is further submitted that the petitioner is a law abiding citizen and has nothing to do with the alleged offence and he is having dependants who are solely dependent upon him as he is the only bread earner in the whole family, therefore the petitioner ought to be granted bail in the aforesaid case.

7. To oppose the contentions raised by learned counsel for the petitioner, Mr. Satya Narayan, learned Additional Public Prosecutor for the State refuted the aforesaid contentions raised by counsel for the petitioner. The State has also filed its status report, according to which a quarrel took place between Abdul Hamid @ Milu, deceased Javed and the petitioner – Aamir and Arshad fired on Javed who got gunshot injury and fell down. Javed had died due to bullet injury

which was fired by the petitioner – Aamir. During the course of investigation, the petitioner – Aamir, Arshad and Nasim were arrested in the present case. Samples were collected and sent to FSL Rohini for expert opinion. Post Mortem of the deceased Javed was conducted at GTB Hospital and cause of death of the deceased was given by Doctor as “Shock as a result of ante mortem injury to chest produced by projectile of a fire arm.” Thereafter, the charges have been framed against all the accused persons.

8. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

9. After considering the contents of the present petition as well as the submissions made by counsel for the petitioner and learned Additional Public Prosecutor for the State, this Court is of the opinion that there is clear and specific averment of Injured – Abdul Hamid @ Milu that the present petitioner told the other co-accused Arshad and Nasim that “beat them all, finish them all” and then both of them took pistols and started firing and bullet of the petitioner - Aamir @ Jakir @ Budha hit Javed. The Post mortem report prepared by the Doctor of GTB Hospital also opined that the cause of death of the deceased was

“Shock as a result of ante mortem injury to chest produced by projectile of a fire arm”. Alternatively, the petitioner has been charged with the offence punishable under Section 302 of IPC and since the trial is at initial stage therefore, the tampering of the evidence cannot be ruled out.

10. In view of the aforesaid, this Court is of the considered opinion that the petitioner does not deserve the concession of bail in this case, at this stage. Accordingly, the present application filed by the petitioner – Aamir @ Jakir @ Buddha is dismissed at this stage. However, it goes without saying that any observation made in the aforesaid order shall not affect the merits of the case.

(P.S.TEJI)
JUDGE

NOVEMBER 20, 2015
pkb