

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

Judgment delivered on : 21st March 2016

+ BAIL APPLN. 172/2016
BHURI @ VIPIN

..... Petitioner

Through: Mr.S.P.M. Tripathi, Mr.Ram Avtar,
Advocates.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Mukesh Kumar, Additional Public
Prosecutor for the State with Sub-
Inspector Vinod, Police Station
Mehrauli, Delhi.

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

%
P.S. TEJI, J.

1. By filing the present bail application under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), petitioner seeks bail in an offence registered as FIR No. 441/2015 dated 14.02.2015, under Section 307/323/341/34 of Indian Penal Code (hereinafter referred to as the IPC) read with Sections 25/27/54/59 of Arms Act, Police Station Mehrauli, Delhi.

2. The FIR of this case has been registered on the statement of the injured – Sagar, who has submitted in his statement that on 14.02.2015, at about 4.p.m., when he was going from his home at Madangir on his motorcycle, with his neighbor Amar, he reached near

Mehrauli Bus Terminal in front of Agarwal Sweet, where three persons namely Deepak, Nitesh @ Shikari and Bhuri, who were his neighbors, came to him and Deepak started beating him with a rod. It is further alleged in the FIR that all the three persons had beaten him ruthlessly and when he started running, Nitesh @ Shikari shot on his left thigh. Thereafter he collapsed there, still Nitesh @ Shikari shot a second fire which hit his calf. It is alleged that all the three persons attached on him with intention to kill him and fled away from the spot.

3. Investigation started and on 21.02.2015, all the three accused persons surrendered in the Court and were arrested. The accused Nitesh @ Shikari was taken on police remand and he disclosed that the country made pistol was of Bhuri @ Vipin (petitioner herein) and the same has hidden by him somewhere. Simultaneously, on police remand, Bhuri disclosed that the same belonged to Nitesh @ Shikari. However, the weapon of offence could not be recovered.

4. Since the incident took place outside Ambawata Complex and video footage was recorded in camera installed at Amabawata Complex, the same was seized and placed on file. In the charge sheet it is submitted that all the three accused persons had attacked the complainant with intention to kill him and due to which the complainant sustained the injuries.

5. In the charge sheet, it is also mentioned that the doctor has opined the injuries being grievous. The exhibits have been sent to FSL and its result is awaited. It is further mentioned in the charge sheet that

as per the investigation conducted so far, sufficient evidence have come on record against all three accused persons kept in Column No.11.

6. Mr.S.P.M. Tripathi, counsel for the petitioner contended that the petitioner is in custody since 21.02.2015, the investigation in the case is complete and the charge sheet has been filed. It is further contended that the petitioner was not involved in the present crime and the same can be proved by seeing the CCTV footage of the incident and there is no other evidence connecting the present petitioner with the alleged offence nor any clinching circumstances to establish prima facie offences to the petitioner. Therefore, in these circumstances, the petitioner ought to be granted bail in the present case.

7. Mr. Mukesh Kumar, Additional Public Prosecutor appearing for the State submitted that the petitioner was accompanying the co-accused Deepak and Nitesh @ Shikari and they had the common intention to kill the complainant. The petitioner is involved in a grave offence which might have caused the death of the complainant. It is further submitted that the charge sheet in this case has been filed and in case the bail is granted to the petitioner he may commit the same offence against the complainant as there is enmity between the two families. Apart from the aforesaid, learned Additional Public Prosecutor for the State further contended that the injured has received gunshot injuries and the injuries suffered by the complainant are opined to be grievous, therefore, the petitioner ought not be granted bail in the present case.

8. I have heard the submissions of learned counsel appearing on behalf of both the sides and gone through the material placed on record.

9. After careful scrutiny of the case, this Court observes that the petitioner was accompanying the co-accused persons but he had not played any active role in the alleged incidence. As per the charge sheet and the contents of the FIR in question, the co-accused – Deepak had stopped the injured and gave beating to him with iron rod and the other co-accused Nitesh @ Shikari had fired on the injured.

10. After going through the contents of the petition as well as FIR, this Court observes that the accused persons in this case are charged with the offences punishable under Section 307/323/341/34 of IPC but the petitioner has neither hit the injured by rod nor gave him a gunshot injury. Considering the fact that the petitioner is a young boy and no active role is attributed to him in the charge sheet or the FIR in question and the fact that the petitioner is in custody since 21.02.2015, this Court is inclined to grant bail to the petitioner Bhuri @ Vipin subject to his furnishing personal bond in the sum of Rs.20,000/- with two sureties of the like amount to the satisfaction of the concerned Court. Petitioner is also directed not to tamper with the evidence, not to influence the prosecution witnesses and shall not leave the country without prior permission of the Trial Court.

11. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated

hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

12. With aforesaid directions, the present petition stands disposed of.

MARCH 21, 2016
pkb

P.S.TEJI, J

