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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 984/2016**
ABHISHEK Petitioner

Through: Mr. K. K. Manan, Sr. Adv. with Mr.
Ankush Narang, Mr. Sandeep Rana,
Mr. Abhishek Bhagat, Mr. Abhijit
Shankar and Ms. Shewta Sain, Advs.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Mr. Amit Chadha, APP for the Sate
with Inspector Santan Singh P.S.
Vasant Kunj (North)

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **16.09.2016**

Learned Senior counsel for the petitioner submits that the petitioner is in custody for the last two years. All the public witnesses have been examined. There is no eye witness to the incident. The case is based on circumstantial evidence and on the alleged dying declaration made by the deceased to his father and brother. It is further submitted that nothing has been recovered from the petitioner. The role of firing of the gun shot at deceased is also not assigned to the petitioner. As per the prosecution, the petitioner alongwith co-accused came on the motorcycle together and took a right turn in the gali. Thereafter co-accused came out with a gun and shot the deceased and within second thereafter petitioner came there on his motorcycle, co-accused sat on the pillion and both of them sped away on the motorcycle. Reliance has been placed on the CCTV footage to support above story. It is further contended that trial court has observed, while statement of PW2 was being recorded, that face of accused persons in the

CCTV footage is not clear, however, physical built of accused persons in the commission of crime, as reflected in the CCTV footage, matched with the physical condition of the accused persons.

Learned APP, who is assisted by the learned counsel for complainant, has contended that from the CCTV footage, it is clear that the petitioner alongwith co-accused had come on the motorcycle, co-accused got down from the motorcycle and fired at the deceased and thereafter both of them escaped on the same motorcycle. While the deceased was being removed on the motorcycle by his friends Sanjay @ Kale and Imran, father of the deceased met them on the way and deceased disclosed to him that petitioner and his co-accused had shot him. It has not been disputed that public witnesses have already been examined and there is no eye witness to the incident. It has also been admitted that nothing was recovered from the petitioner.

Keeping in mind the totality of the facts and circumstances; more particularly that the case is based on circumstantial evidence, nothing has been recovered from the petitioner, role of firing gun shot is not assigned to petitioner, he is admitted to bail, subject to his furnishing a personal bond in the sum of ₹50,000/- (Rupees Fifty Thousand Only) with one surety in the like amount to the satisfaction of trial court.

The petitioner shall, however, not delay the trial by taking unnecessary adjournments.

Bail application is disposed of in the above terms. Dasti.

A.K. PATHAK, J

SEPTEMBER 16, 2016/ssc