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

+ **BAIL APPLN. 1188/2016**

SHAKEEL @ SHANU

..... Petitioner

Represented by: Mr. Manu Parashar, Adv.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Represented by: Mr. Hirein Sharma, APP with
SI Omvir Singh PS Nand
Nagri.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
20.09.2016

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1. By the present the petitioner seeks regular bail in case FIR No.888/2014 under Sections 307/34 IPC registered at PS Nand Nagri.

2. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 10th September, 2014. Cross-case has already been registered on the complaint of the petitioner. Learned counsel for the petitioner submits that a prior FIR on the complaint of the petitioner was registered against the complainant PW-1 and it is for this reason complainant has foisted a false case on the petitioner and his co-accused. Though he got himself examined in chief on 18th March, 2015 however despite warrants being issued he is not appearing before the Court for cross-

BAIL APPLN. 1188/2016

page 1 of 3

examination. The petitioner cannot be made to languish in jail if the prosecution fails to examine the witnesses.

3. Learned APP for the State has taken me through the status report. As per the status report an information was received from GTB Hospital on 17th September, 2014 wherein the complainant PW-1 Chand aged 31 years was admitted after a quarrel. In the statement of Chand recorded, he stated that on 7th September, 2014 at 6.00 PM when he was sleeping on the roof of his house, Shanu, Mama @ Rafiq and Mustkeem whom he knew earlier came to his house. While abusing him Mustkeem caught hold of his legs, Shanu attacked him on the chest with a sharp edged weapon to kill him. To avoid the attack by Shanu the complainant raised both his hands when Mama @ Rafiq attacked on him with a sharp edged weapon as a result both his hands got injured and when he raised the alarm the three accused fled away.

4. As per the MLC of the complainant/ victim he received 7 incised wounds of which two were on the waist and rest on the forearm, wrist etc., besides an abrasion.

5. The petitioner is in custody since 10th September, 2014. After getting his statement in chief recorded before the Court on 18th March, 2015 PW-1 has not appeared before the Court.

6. Considering the facts and circumstances of the case and that the two co-accused, one against whom allegations of catching hold are there and the other who gave as many as 5 incised wounds, have been granted bail, I deem it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the learned

Trial Court further subject to the condition that the petitioner will not leave the country without the prior permission of the Court concerned.

7. Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

SEPTEMBER 20, 2016

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