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

+ **BAIL APPLN. 2437/2016**

CHANDERJEET KUMAR @ KISHAN

..... Petitioner

Represented by: Mr. Ajayinder Sangwan with
Mr. Tarunesh Kumar and Mr.
Rohan Sharma, Advs.

versus

STATE GOVT NCT OF DELHI

..... Respondent

Represented by: Mr. Ravi Nayak, APP with SI
Davinder Kumar, CR/Crime
Branch.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

25.01.2017

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1. By the present petition, the petitioner seeks bail in case FIR No.119/2015 under Sections 186/353/307 IPC and Sections 25/27 Arms Act registered at PS Crime Branch.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated and was in fact arrested earlier shown to have been arrested later on in the FIR. The story of the prosecution in the FIR is totally concocted and cannot be believed. It is highly improbable that in a crowded area where it is alleged that the petitioner shot at police officer, no independent witness was available and in any case no action was taken against the witnesses who failed to join the investigation. After the arrest of the petitioner, no hand wash was taken which could show the presence of gun powder residue. Further no chance print were taken from the motor-

cycle to show that the petitioner was riding the same. He further states that while arresting the petitioner, there was complete violation of Section 41 Cr.P.C. The arrest memo was not signed by any of the family members. In the FIR incorrect facts that the petitioner is a desperate criminal and has the history of firing has been wrongly mentioned because in the earlier case though he was initially convicted by the Division Bench of this Court but was later acquitted because he was held to be juvenile at the time of alleged incident. Further the allegation against the petitioner, if any, was that he had used a knife. Recoveries allegedly made were in violation of Section 100 Cr.P.C.

3. Learned APP for the State opposing the bail submits that while conviction of the petitioner was upheld in CrI.A. No.371/2015, this Court noted that the petitioner had shot at the deceased. The petitioner cannot take advantage of the order passed setting aside his sentence on the plea of juvenility. Further the petitioner was granted parole which he jumped and was declared a proclaimed offender. Moreover the FSL shows that the bullets recovered from the jacket and the cartridge cases from the spot tallied with the weapon of offence recovered from the petitioner.

4. The allegations in the above noted FIR are that since the petitioner was a proclaimed offender having jumped the parole in FIR No.21/2007 under Sections 302/384/506 IPC and 25/54/59 of Arms Act and there was a reward of ₹1 lakh on his arrest. Efforts were being made to find out his whereabouts when a secret information was received on 2nd August, 2015 at around 6.30 PM that the petitioner would be coming at Bus Stand near Pragati Power Station. A raiding party was constituted and since the information also revealed that the petitioner would be armed, bullet proof

jackets were taken by the raiding party. At around, 8.45 PM the police officers took their position and around 9.30 pm one motorcycle bearing No.DL 7S BJ 5043 stopped near the bus stand, Pragati Power Station and one person wearing white shirt and jeans alighted. He was waiting for someone on footpath. On the secret informer pointing out that the person standing on the footpath was the petitioner, the police party moved towards him and asked him to disclose his identity and surrender. It is alleged that immediately the petitioner took out one pistol in his right hand from his back side right dhub and exhorted “AAGE MAT BADHO VERNA GOLI MAAR DOONGA” and started running towards the motorcycle. Though thereafter the petitioner fired a shot towards the complainant with the intention to kill him but he was safe because he was wearing bullet proof jacket. Thereafter, the raiding party ran towards the petitioner and finally the petitioner was apprehended and from his possession, one 9 mm pistol and two live cartridges in its magazine were recovered.

5. During the course of trial, three out of fifteen witnesses have been examined by the prosecution. The fact remains that earlier when the petitioner was granted parole, he did not surrender and was declared a proclaimed offender. He could be arrested pursuant to the above noted FIR registered against him.

6. Considering the past conduct of the petitioner, this Court finds no reason to grant bail to the petitioner.

7. Petition is dismissed.

MUKTA GUPTA, J.

JANUARY 25, 2017
‘v mittal’