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

+ **BAIL APPLN. 2957/2018**

HASIM

..... Petitioner

Through: Mr. R.A.Khan, Adv.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for State.
Insp. Ram Niwas PS Nabi Karim.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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25.01.2019

The petitioner is facing trial as accused on the charge under Sections 302/34 of Indian Penal Code 1860 on the basis of charge sheet submitted pursuant to investigation of FIR No.133/2017 of Police Station Nabi Karim. Besides him, one Mohammad Asif is also an accused in the case. The case concerns homicidal death of Anil sometime after midnight of 22nd and 23rd May, 2017, the fatal injuries having been inflicted by use of a fire arm. The petitioner claims to be innocent and falsely implicated. He seeks parity with co-accused Mohammad Asif who was released on bail by the Court of Sessions by order dated 3.5.2018, copy whereof was submitted across the bar today. A perusal of the said order dated 3.5.2018 shows that the ballistic report from FSL concerning the fire arm recovered from co-accused appears to be negative.

Be that as it may, as is pointed out, there is no parity between the case of the prosecution against Mohammad Asif and the petitioner. The prosecution relies upon, *inter alia*, the statement of Dharmender, brother of the wife of the deceased, he having heard the gunshots and having found the victim lying at the place of the incident crying in pain due to the fire arm injury, his evidence bringing out dying declaration clearly incriminating the petitioner. Dharmender is yet to be examined at the trial.

In these circumstances, no case for release on bail is made out.

Dismissed.

R.K.GAUBA, J

JANUARY 25, 2019
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