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

+ **BAIL APPLN. 2810/2019**

RIZWAN

..... Petitioner

Through Mr I.S. Alag, Senior Advocate with
Mr Rudro Chatterje, Mr Jatin Teotia, Advocates.

versus

STATE

..... Respondent

Through: Mrs Kusum Dhalla, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.01.2020

1. The petitioner has filed the present petition, *inter alia*, praying that he be released on bail in FIR No. 634/2017 under Sections 302/34 of the IPC and Section 25 of the Arms Act, 1959 registered with PS Bhajanpura, New Delhi.
2. The said FIR was registered subsequent to a PCR Call received on 23.10.2017 at PS Bhajanpura, Delhi. It is stated that Constable Vijender was entrusted to respond and he reached the spot (H.N. V-300/93, Gali No. 21A, Vijay Park, Maujpur, Delhi) where he found a boy aged twenty-two years lying dead on the staircase. The said boy was identified as Arif Hussain.
3. Subsequently, an FIR was registered at the instance of the father of the deceased (Arif Husain). He reported that Arif Hussain left his house on 23.10.2017 at about 1.00 p.m. Thereafter, he had heard sound of some shots. He opened the gate of his house and found his son lying down on the entry

gate. The complainant had reported that he had seen two persons who had shot his son dead. The said persons had fled towards 66 Foota Road, Moujpur, Delhi. They had escaped by riding pillion on two motorcycles which were ridden by their associates. It is alleged that they were waiting to pick up the two assailants.

4. According to the prosecution, the two persons who had shot Arif Hussain were identified as Tanveer @ Gattu and Anwar. Their associates who were riding the motorcycles were identified as Rashid @ Golu and Shabbo. The petitioner was not directly involved in the shooting. He is alleged to be a party to the conspiracy for committing the said offence. The status report indicates that one of the motorcycles used in committing the alleged offence was recovered from the accused. The status report also indicates that the said motorcycle was a part of the case property in another case being FIR No. 786/2017 registered with P.S. Loni Border, Uttar Pradesh. The petitioner was arrested in FIR No. 592/2017 under Sections 302/120-B/307/34 of the IPC and the motorcycle in question was recovered from the petitioner during the investigation pertaining to that case. It is also alleged in the status report that the conspiracy was hatched in the petitioner's house and the petitioner had collected the intelligence, money, weapon and the vehicle to carry out the aforesaid offence.

5. The petitioner was arrested on 31.10.2017 in connection with FIR No. 592/2017 registered with PS Jafarabad. He was formally arrested in the present FIR on 05.12.2017 and has been in custody for over two years.

6. It is informed that all the public witnesses have already been examined and only the official witnesses remain to be examined. Since the number of witnesses to be examined are large and there are number of co-

accused, the trial is likely to take some time. It is also pointed out that one of the co-accused, namely Shahrukh Qureshi, who was not directly involved in shooting the deceased, was also released on bail by an order dated 31.10.2019 (*Bail Application No. 2359/2019 captioned Shahrukh Qureshi v. State*).

7. The petitioner disputes he is involved in the case. Mr. Alag, learned Senior Counsel appearing for the petitioner further submits that there is no evidence whatsoever to link the motorcycle allegedly recovered to the alleged offence.

8. The aforesaid contentions are countered by Ms Dhalla, learned APP. She states that the incident is one of revenge killing. The deceased was involved in a gang that had killed one Kamar in the year 2017 and a conspiracy was hatched by the petitioner and other co-accused to eliminate the deceased.

9. At this stage, it is not necessary for this Court to examine the evidence in any detail. Considering that the public witnesses have already been examined; that the Trial Court is like to take time to conclude the trial; that the petitioner has been in custody for over two years; that the petitioner is not alleged to be one of the assailants who had allegedly shot the deceased or has assisted the them in escaping on motorcycles, and; that the co-accused have been granted bail, this Court considers it apposite to allow the present petition.

10. Accordingly, the petitioner is permitted to be released on bail on his furnishing a personal bond in the sum of ₹1,00,000/- with one surety of the equivalent amount to the satisfaction of the concerned Trial Court. The petitioner shall not leave the National Capital Territory of Delhi without

permission of the Trial Court. He shall also make himself available on all hearings before the Trial Court. In addition, the petitioner shall report to the concerned police station (PS Bhajan Pura) on every first and third Monday of each calendar month at 10.30 a.m. The petitioner shall not contact the complainant or his family members either directly or indirectly.

11. Order *dasti* under the signatures of the Court Master.

VIBHU BAKHRU, J

JANUARY 08, 2020

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