

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

Judgment delivered on: 20.01.2020

+ **BAIL APPLN. 2678/2019**

SHAHIL KHAN

..... Petitioner

Through:- Mr. N.U. Ahmed, Advocate

Versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through:- Mr. G.M. Farooqui, APP for the
State with Inspector Mukhtiar
Singh, P.S.: South West
District and Inspector Rajvir
Singh, P.S.: Chhawla

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.(Oral)

1. Vide this order I shall dispose of a bail application filed u/s. 439 CrPC by the petitioner **Shahil Khan** in FIR No. 174/2016 under Section 302/34/120B IPC and 25/27/54/59 Arms Act, P.S.: Chhawala.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. Petitioner is in judicial custody since 29.04.2016. It is further submitted that other co-accused persons namely Akash Shawarat, Sumit Kumar, Diksha, Manish Singh @ Dheele, Sandeep Kumar and Shamsuddin @

Shamsu have been discharged by the Ld. Trial Court on 24.04.2018 and the co-accused Lalit Dahiya who is the main accused, has already been enlarged on bail vide order dated 18.12.2018. The bail application moved by the petitioner before the Learned Trial Court Sh. Vivek Kumar Gulia, ASJ-03 & Special Judge (Companies Act), Dwarka Courts (SW), Delhi was dismissed vide order dated 05.01.2019. It is submitted that alleged recovery of pistol for the petitioner is nothing but an eye wash which has been planted just to implicate the petitioner. It is further submitted that six witnesses out of forty-three witnesses have turned hostile. Eyewitness PW-1 Sandeep Shokeen and PW-2 Kulbant Singh as well as public witness Prakash, did not support the version of prosecution in their examination and no witness have stated anything incriminating against the petitioner. No further investigation is required against the petitioner. It is, therefore, prayed that petitioner be released on bail in the interest of justice.

3. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. The weapon of offence i.e. country made pistol used for committing murder of deceased Monika was recovered from his possession alongwith seven live cartridges. Petitioner Shahil Khan has refused to

participate in TIP proceedings. Call detail records of petitioner's mobile phone shows that the petitioner and co-accused Lalit Dahiya contacted each other twenty-nine times before the murder of the deceased. It is further submitted that material witnesses are yet to be examined and only six witnesses out of total forty-three witnesses have been examined yet. He has, therefore prayed for dismissal of the bail application.

4. I have considered the rival submissions. Out of 43 witnesses only six witnesses have been examined. The evidentiary value of the these six witnesses, will be considered by the Ld. Trial Court at the appropriate stage. Prosecution has still to bring other evidence on record by examining the witnesses. It is a settled law that evidence cannot be discussed in detail at the time of consideration of bail application since no mini trial can be conducted at that stage. The weapon of offence i.e. country made pistol used to commit murder of deceased Monika was recovered from the possession of the petitioner along with seven live cartridges. Petitioner Shahil Khan has refused to participate in TIP proceedings. As per call detail records of petitioner's mobile phone, he and co-accused Lalit Dahiya (husband of the deceased) had contacted each other twenty-nine times before

the murder of the deceased. In view of the above discussions and also keeping in view the serious nature of the offence, no grounds for grant of bail are made out at this stage. The bail application, is therefore, dismissed.

BRIJESH SETHI, J

JANUARY, 20, 2019

Amit

