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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2727/2019

OM PRAKASH @ SUNNY

..... Petitioner

Through: Mr.K.Singhal, Advocate

versus

STATE

..... Respondent

Through: Ms.Meenakshi Dahiya, APP for State
with SI Manoj Kumar, PS CR Park

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.02.2020

The submissions have been made on behalf of either side.

It has been submitted on behalf of the applicant that he has been falsely implicated. Pursuant to the proceedings dated 14.1.2020, a copy of the order dated 12.12.2019 of the learned ASJ-03 (South), Saket Courts, New Delhi, in relation to the co-accused named Devender has been submitted to contend that the said accused was granted interim bail which was to expire today and it has been submitted that the interim bail of the said co-accused has since been extended and that another co-accused who caught hold of the complainant and the other accused who fired the gun shot on the injured/complainant is stated to be in custody.

It is submitted on behalf of the applicant that the applicant has not been duly identified by the complainant and that the testimony of the complainant recorded during the trial does not corroborate the

prosecution version in relation to the applicant having been identified by the complainant at the Police Station on 15.1.2016 one day after the arrest of the applicant on 14.1.2016 when he is stated to have refused to participate in the Test Identification Proceedings and it has thus been submitted on behalf of the applicant that in the circumstances, no adverse inference ought to be taken against him.

It has inter alia been submitted on behalf of the applicant that the proceedings in relation to the FIR No. 314/2011, PS Saket, under Sections 186/353/34 of the Indian Penal Code, 1860 have since been culminated on 27.2.2016 with the applicant having been convicted for a period of 455 days with a fine of Rs.10000/- and the proceedings in relation to FIR No. 17/2016, PS Saket registered under Sections 411/482 of the Indian Penal Code, 1860, are still in progress and the proceedings in relation to the FIR No. 2/16, PS Malviya Nagar registered under Sections 397/411/34 IPC & 27/25/54/59 Arms Act indicate that the applicant has already been acquitted vide the judgment dated 4.2.2017 in SC No. 27/16 submitted further to the effect that the appellant had been arrested in the case FIR No.17/16, PS Saket on 6.1.2016 pursuant to which he was arrested in the present case.

On behalf of the State the bail application is vehemently opposed submitting to the effect that the applicant was one of the accused persons along with the co-accused who had caught hold of the injured complainant at the time of the gun shot by the co-accused, Prince, and that the applicant is involved in other cases as detailed herein above.

Without any observations on the merits or demerits of the trial which is in progress, on a perusal of the testimony recorded of the PW-2 before the Trial Court who has given different versions in relation to the identification of the petitioner at different stages of the cross-examination, with the complainant having stated *inter alia* to the effect that he did not make the statement as put forth on behalf of the Investigating Agency as being EX.PW2/X1 wherein he has stated that he had identified the petitioner before the police as being one of the accused persons involved in the instant case, it is considered appropriate to release the applicant on his furnishing a personal bond in the sum of Rs.1,00,000/- with two sureties in the like amount to the satisfaction of the learned Trial Court with the directions that he shall not leave the city, shall not make any contact with the witnesses and shall commit no offence whatsoever and in the event of there being any other FIR registered against the applicant, the State shall bring the same to the notice of the Court forthwith.

The petition is disposed of.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

FEBRUARY 13, 2020/sv