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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 367/2020

SAJAN @ PRINCE

..... Applicant

Through: Mr. Ishwar Singh, Adv.

versus

STATE

..... Respondent

Through: Mr. Ashok Kr. Garg, APP for State.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.07.2020

The status report has been submitted by the State as per which it is stated that the applicant has played an active role in the commission of the crime and that the Desi Katta having one live cartridge and one empty cartridge (8 mm) were recovered from the applicant but the same is not connected with the empty cartridge (7.65 KF) recovered from the spot.

During the course of submissions that have been made on behalf of the applicant on 09.07.2020, it had been submitted on behalf of the applicant that the submissions that had been made through the status report that had been submitted by the State in relation to one fired cartridge having been recovered from the house of the applicant did not match with the cartridges recovered at the spot as well as the alleged weapon of offence recovered from the applicant. It has been submitted on behalf of the applicant that the same was not borne out through the FSL result and that the status report that had been

submitted on behalf of the State previously was erroneous.

In view of the status report that has been submitted now on behalf of the State dated 11.07.2020 under the signatures of the SHO, PS Shahbad Dairy, it is categorically stated now on behalf of the State that the empty cartridge (8 mm) recovered from the applicant is not connected with the empty cartridge (7.65 KF) recovered from the spot.

On behalf of the applicant it has been submitted that he is aged 20 years and that his brother has been seriously injured with gun shot injuries and in relation to the FIR No.21/2019, PS Shahbad Dairy, the cross FIR, has been registered in which the husband of the victim Pooja and his two brothers namely Sumit and Amit are in judicial custody. It has been submitted on behalf of the applicant that the applicant has been incarcerated for more than 18 months and has no previous adverse antecedents against him and no useful purpose would be served by the continuation of the incarceration of the applicant. It is also submitted on behalf of the applicant that the statement of the alleged eye witnesses, which learned counsel for the applicant stated are false had been recorded with much delay in as much as statement of Kamla, mother-in-law of the injured was recorded on 13.01.2019 with the incident having taken place on 11.01.2019 and it has further been submitted on behalf of the applicant that the statement of Pooja, who was discharged from the hospital on 27.01.2019 was recorded on 12.02.2019 with much delay.

On behalf of the State though whilst accepting the factum that the fired cartridge recovered from the applicant's residence does not

connect to the empty cartridge (7.65 KF) recovered from the spot, nevertheless on behalf of the State it has been submitted that there are statements of eye witnesses i.e. Kuldeep, the husband of the injured Pooja, Pooja herself and the mother-in-law of the injured Ms. Kamla which are categorically to the effect that the applicant along with his brother Chota Sagar had fired gun shots on the complainant. It has also been submitted on behalf of the State that the injured was admitted to the hospital on 12.01.2019 and remained hospitalized till 27.02.2019 and as per the MLC, she suffered dangerous injuries with a penetrating wound. It has also been submitted on behalf of the State that the statement of the spouse of the injured was recorded on 13.01.2019 itself and it has been submitted that the Investigating Officer had recorded the statement of Ms. Pooja, the injured as soon as he came to know of the discharge of the injured Pooja from the hospital.

It has *inter alia* been submitted on behalf of the applicant that the spouse of the injured has several cases against him and that the applicant has been falsely implicated in the instant case. A further submission has been made on behalf of the applicant that the statement of Pooja, the injured and Kamla, mother-in-law of the applicant have omnibus allegations against the applicant with it having been submitted thereby that the firing was done by Chota Sagar, the brother of the applicant as well as the applicant on Pooja.

On a consideration of the rival submissions that have been made on behalf of either side, taking into account the statement of the alleged eye witness including that of the injured herself, despite the

submission made on behalf of the applicant that he has been falsely implicated in the instant case and despite the submission that there is the cross FIR registered bearing no.21/19, PS Shahbad Dairy against the spouse of the injured and the brother of the spouse of the injured, in view of the gravity of the alleged commission of offence and the nature of the injuries sustained by the injured, there is no ground for grant of bail.

The application is declined.

ANU MALHOTRA, J

JULY 13, 2020

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