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

+ **BAIL APPLN. 382/2020**

ANIL KUMAR

..... Petitioner

Through Mr Pramod Saxena, Advocate.

versus

STATE OF N.C.T OF DELHI & ORS Respondents

Through Ms Kusum Dhalla, APP for State.

Insp. Satya Pal Singh, SI Shri Narayan, P.S. Karol
Bagh SI Dharmendra IO present.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.02.2020

1. The petitioner has filed the present petition, *inter alia*, praying that he be granted bail in connection with FIR No. 397/2016 under Sections 307/395/34 of the IPC and Sections 25/27/54/59 of the Arms Act, 1959 registered with PS Karol Bagh.
2. The said FIR was registered on the complaint made by one Mr Chetan Shah (the complainant). He had alleged that on 24.03.2016, when he and his colleague were returning to his office with a briefcase containing diamond articles and some cash, both of them were attacked by firearms and had sustained injuries. The complainant had stated that he had turned around on being attacked and found two persons standing and pointing weapons towards them. The said assailants had escaped on seeing the public gathering at the spot. It was reported by the complainant that he and certain other members of the public had seen them escaping on a motor cycle

bearing No. DL-ISX-9342. The petitioner and his co-accused were apprehended from Mau District, Eastern Uttar Pradesh. They disclosed the names of the two other persons who had provided them the weapons and the said motorcycle.

3. A status report has been filed, which indicates that the complainant has identified the accused persons (the appellant and co-accused Ram Awadh @ Sipahi) as the two assailants who had fired at him and his friend (Karan Shah).

4. The prosecution intends to examine thirty witnesses, out of which, only five witnesses have been examined so far.

5. The learned counsel appearing for the petitioner submits that the co-accused Ram Awadh @ Sipahi has been released on bail and therefore, on the principle of parity, the petitioner should also be released on bail.

6. Ms Dhalla, learned APP states that the trial is at a crucial stage and the evidence of the complainant is yet to be recorded. She submits that the CCTV Footage has also been obtained which clearly shows the appellant and the co-accused committing the said crime. She further states that the petitioner cannot claim parity with his co-accused as the co-accused was released on account of suffering from serious ailments, which is not the case with the appellant.

7. The petitioner has been in custody since 02.07.2016 and thus, has already spent more than three and a half years in custody and only five witnesses have been examined so far. Thus, it is unlikely that the trial would be completed within a short period. Considering the above and considering that all the co-accused have been released on bail, this Court is of the view that the petitioner also be admitted to bail. However, since the trial is at a

crucial stage and the complainant has not been examined as yet, this Court considers it apposite to defer the petitioner's release on bail till the complainant has been examined.

8. This Court has reason to understand that the matter is fixed before the Trial Court for examination of the complainant on 03.03.2020. The Trial Court is requested to complete the same as expeditiously as possible.

9. On the testimony of the complainant being recorded, the petitioner shall be released on bail on his furnishing a personal bond in the sum of ₹20,000/- with two sureties of the like amount (one of which shall be a surety resident in Delhi) to the satisfaction of the Trial Court. The petitioner shall provide his contact details to the concerned SHO, including a mobile number on which he shall be reachable at all times. On his release, the petitioner shall mark his presence with the local police station (Halدار Pur, District Mau, U.P.) and he shall continue to do so on every first Monday of the calendar month. The petitioner shall also ensure that he attends all hearings before the Trial Court.

10. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

FEBRUARY 24, 2020

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