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

+ **BAIL APPLN. 401/2020**

LOKESH KUMAR

..... Petitioner

Through: Mr H. S. Saini and Mr Gourav
Kundal, Advocates.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State with
SI Vikas Pawar, PS Mahendra Park.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.03.2020

1. The petitioner has filed the present petition, *inter alia*, praying for bail in connection with FIR No.0129/2018 under Sections 307/34 of the IPC read with Sections 25/27/54/59 of the Arms Act, 1959 registered with PS Mahendra Park.
2. The said FIR was registered as it was reported that on 26.03.2018, a dispute has arisen between the complainant (Subodh Kumar) and his brother (Pramod). It is alleged that they were quarrelling in a park. The quarrel was in regard to Pramod consuming wine. It is stated that at the material time, three boys including the petitioner, were present at the spot and had asked the complainant and his brother not to quarrel and go away from there. This resulted in a quarrel between the complainant and the said three persons (the accused). The said three accused were identified as the petitioner, Sandeep and Sachin. It is stated that Sandeep took out a *desi katta* and handed it over

to the petitioner and Sachin exhorted the petitioner to shoot the complainant (Subodh Kumar). It is alleged that the petitioner took the weapon (*desi katta*) from the accused Sandeep and fired at the complainant. In the process two children, who were playing in the park were also injured. It is stated that the complainant (Subodh) and one child (Arman) who was playing in the park received simple injuries while, another child (Rahul), received a grievous injury.

3. The status report indicates that the weapon was recovered at the instance of the petitioner. It is also stated that one of the co-accused (Sachin) pleaded guilty and was sentenced to the period already served by him (that is, one year and two months).

4. Mr Saini, learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated. He has drawn the attention of this Court to DD No.007A, which records the first information received by the police. As per the said DD entry, a call had been received by a lady stating that her son had been injured and the assailant is standing there.

5. Mr Saini submits that even though the assailant was reportedly present at the spot, but he was not apprehended. He states that this implies that the petitioner was not present there and has been falsely implicated. He also stated that the names of the accused were not disclosed immediately but the same were disclosed a few days later. He states that the accused and the complainant are acquainted and if the petitioner has committed the offence, the complainant would have reported the same immediately. According to him, this also indicates that the petitioner has been falsely implicated. He submits that although the prosecution claims that the *desi katta* was recovered at the instance of the petitioner; the said story is also concocted

and the same is apparent from the fact that the said weapon is alleged to have been recovered from the bushes in the said park.

6. At this stage, it is not necessary for this Court to examine the merits of the allegations in any detail. The petitioner has been in custody for over two years. The next date before the Trial Court is now fixed as 08.09.2020 and it does not appear that the trial will be completed shortly.

7. In view of the above, this Court considers it apposite to allow the present petition. The petitioner shall be released on bail subject to his furnishing a personal bond in the sum of ₹20,000/- with two sureties of an equivalent amount to the satisfaction of the Trial Court. This is also subject to the petitioner complying with the following further conditions:-

- a) That the petitioner shall mark his presence before the concerned police station exercising jurisdiction over the place where he resides on every first Monday of the calendar month;
- b) That the petitioner shall ensure that he is present at all hearings before the Trial Court.
- c) That the petitioner shall provide his contact details and ensure that he is reachable at all times.
- d) That the petitioner shall not contact any of the witnesses, either directly or indirectly, or try to influence the trial in any manner.

8. The petition is, accordingly, disposed of.

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

VIBHU BAKHRU, J

MARCH 13, 2020/MK