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

+ **BAIL APPLN. 1684/2020 and CRL.M.A. 9144/2020, 9145/2020**

ANIL KUMAR VATS alias CHOTI Applicant
Through: Mr. Varun Tyagi and Mr. Bharat
Gupta, Advocates

versus

STATE Respondent
Through: Mr. Raghuvinder Verma, Ld. APP
Mr. M.C. Kashyap, Advocate for
parents of the deceased.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
18.09.2020

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1. This hearing has been held through video conferencing.
2. In the present petition, the Applicant, Mr. Anil Kumar Vats@ Choti, seeks interim bail. He is charged in FIR No.64/2016 for committing offences under Sections 302/506/120B/34 of the IPC as also Sections 25/27 of the Arms Act. He has been in custody for more than 4 and a half years.
3. The incident took place on 1st February, 2016, when the deceased Mr. Nikhil Kumar is stated to have been killed. There were a total of 5 accused in the FIR, which was recorded on the statement of the eye-witness Mr. Gaurav Bharadwaj. Out of the five accused, one Mr. Manish is stated to have expired in custody and three are stated to have already been given bail.
4. Ld. Counsel for the Applicant, Mr. Tyagi, submits that the application for regular bail of the Applicant was rejected, however, on 19th February,

2019 when the Applicant's father was to undergo an operation, he was given interim bail for one week. He submits that though it has been recorded that the Applicant is married, the same is not correct. In fact, the Applicant's brother was married and he has two minor children. Applicant's brother, Mr. Sunil Pandit, was shot dead and there is a separate trial which is under way in respect of his death.

5. Ld. counsel for the Applicant further submits that during the COVID-19 pandemic, considering that his parents are senior citizens and his elder brother, Mr. Sunil Kumar, has already expired in an accident, the Applicant needs to look after his parents and make some arrangements for them. He submits that it is wrongly recorded in the status report that he is involved in 2 other FIR's: FIR No. 99/2013 and FIR No.121/2010. In FIR 99/2013, the Applicant has already been acquitted vide order dated 13th July, 2015 passed by the learned Trial Court, Dwarka, and only a CrI. LP being No. 06/2016, filed by the state is pending adjudication. Ld. Counsel for the Applicant further submits that the public witnesses have already been examined and only the police witnesses are yet to be examined.

6. Ld. Counsel for the Applicant relies upon the following two decisions: an order dated 6th August, 2020 in ***Vivek @ Goldi v. State (GNCT of Delhi) [Bail Appln. 1748/2020]***, and Justice C. Hari Shankar's order in ***Benhruddin v. State of NCT of Delhi [Bail Appln. 1142/2020]***.

7. Mr. Kashyap, ld. counsel for the parents of the deceased, submits that the deceased Mr. Nikhil Kumar was only 24 years of age, and the main conspiracy was hatched up by the Applicant. He submits that the Applicant, Mr. Anil Kumar, the deceased Mr. Nikhil Kumar and the co-accused Mr. Manish Solanki were all friends, and some kind of conspiracy was hatched

to kill Mr. Nikhil Kumar. The gun by which the shots were fired belongs to the Applicant. Mr. Kashyap accordingly opposes the grant of interim bail. He further submits that even on sympathetic grounds, bail ought not to be granted as the deceased was just married a few months before his murder. He submits that the High Court Committee's recommendations are merely advisory in nature and the conduct of Applicant in jail is also not good. Ld. counsel submits that there are various threats being exchanged between the two families and the parents of the deceased have lost a 24 year old boy, who had gotten married just three months before his demise.

8. Mr. Verma, Id. APP on behalf of the prosecution submits that the Applicant's petition for regular bail has already been dismissed by an earlier order dated 20th April 2019, passed by the High Court of Delhi, and there is no change in circumstances. He further submits that the Applicant is a person who has criminal propensity and belongs to a family which is financially well-off. His father is also engaged in real estate business and therefore, no sympathy needs to be shown to the Applicant.

9. Mr. Varun Tyagi, Id. counsel for the Applicant relies upon the three orders in which the co-accused Mr. Joginder Solanki, Mr. Niraj Vats and Amit have all been given bail.

10. The Court has considered the matter comprehensively and also seen the allegations against the Applicant. Unlike the other co-accused, in the present case, the pistol which was taken by Manish, who shot the deceased, allegedly belongs to the Applicant. This is stated to be confirmed by the CCTV footage which is placed on record. Manish was also arrested but is stated to have passed away in judicial custody. Moreover, the order of the Trial Court dated 27th October, 2016 shows that there is enormous animosity

between the family of the deceased and the Applicant. The Complainant/deceased family has also moved twice and sought transfer of the matter from one judge to another.

11. The regular bail of the Petitioner has been rejected by a detailed order 30th April, 2019 passed by a Ld. Single Judge of this court. Thus, this court can only consider if there is any extenuating circumstance for grant of interim bail. There are no reasons for grant of interim bail, especially when viewed in the light of the allegations against the Petitioner and the animosity between the families. The Petitioner has been in custody since 3rd February, 2016 and more than four years have elapsed. Considering this fact, the Id. District Judge, Dwarka (South) is directed to ensure that the evidence in the present matter is recorded on a day to day basis. There are a total of 39 witnesses in this case. It is stated that the evidence of all the public witnesses has been recorded and only the evidence of official witnesses is left to be recorded. The matter is currently stated to be pending before Mr. Mohinder Virat, Id. ASJ, South district, Dwarka Courts.

12. Considering the fact that the incident took place in 2016 and the Applicant is still in custody, the trial in this case is expedited. The statements of all the official witnesses shall be recorded through video conferencing and shall be concluded, on or before six months. The Id. District Judge shall also monitor the progress of the Trial Court in this case. It is also directed that the deceased's family shall not file any more transfer applications, seeking transfer of the matter from one judge to another.

13. Copy of this order be sent to the Id. District Judge, Dwarka (South) Delhi as also to the Id. ASJ, Dwarka Courts- Mr. Mohinder Virat, where the trial of this case is pending.

14. The request for bail is according rejected. in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

SEPTEMBER 18, 2020
MR/Ak