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

+ **BAIL APPLN. 2288/2020**

RAHUL MITTAL @ ASHISH MITTAL Petitioner

Through: Mr Anuj Soni, Advocate

versus

THE STATE Respondent

Through: Mr Amit Gupta, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.09.2020

[Hearing held through videoconferencing]

CRL.M.A. 11434/2020

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition, *inter alia*, praying for bail in connection with FIR No.0140/2018 under Sections 307/34 of the IPC and Sections 25/27/54/59 of the Arms Act, 1959 registered with PS Sarai Rohilla, New Delhi.

3. The said FIR was registered at the instance of one Shri Morya. He had stated that on the date of the incident he and two of his friends, namely, Charanjeet Singh @ Chand and Gaurav were present at the house of their friend whose name is Jasu. He reported that the petitioner herein (Ashish Mittal) had called Jasu on his mobile phone and inquired about the

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whereabouts of the Charanjeet Singh @ Chand. However, Jasu did not reveal the same. It is alleged that, thereafter, the petitioner once again called Jasu and told him that he was standing outside his house. Jasu went out of the house and after some time returned back with three persons, namely, the petitioner (Rohit @ Aashish Mittal), Rohit Mundra and Varun Sharma @ Illu, accompanying him.

4. It is alleged that the Rohit asked Charanjeet as to why he was sending messages but he responded that he had no phone and had not sent any messages. Thereafter, Rohit allegedly took out a firearm (pistol) and fired on Charanjeet Singh. The first bullet did not hit Charanjeet Singh. Thereafter, Rohit Mundra fired again and this time the bullet hit Charanjeet Singh in his face and continues to be lodged below his teeth. It is alleged that, thereafter, Rohit Mundra also gave another blow on the head of Charanjeet Singh with the pistol. Thereafter, all the three persons, namely, the petitioner (Rahul @ Aashish Mittal), Rohit Mundra and Varun Sharma @ Illu, fled on a red coloured scooty. Charanjeet Singh did not succumb to his injuries but the bullet is still stuck in his teeth.

5. Mr Soni, learned counsel appearing for the petitioner submits that the co-accused was granted bail by this Court by an order dated 11.03.2020 in Bail Application No.613/2020 and, therefore, the petitioner should also be released on the principle of parity. He further submits that at the material time, the petitioner was at an impressionable age and, therefore, he ought to be shown some leniency. He states that the petitioner has been in custody for over two years and the trial is likely to take some time. He also emphasised that the petitioner was not carrying any weapon and there is no allegation that he had inflicted any injury.

6. Mr Gupta, learned APP submits that the petitioner is also involved in two other cases including the one under the Arms Act. He further submits that the eye witnesses are yet to be examined and if the petitioner is released on bail there is likelihood of his attempting to influence the said witnesses.

7. The contention that the petitioner is entitled to parity to Mr Varun Sharma @ Illu is unmerited. A plain reading of the order dated 17.03.2020 passed in Bail Application No.613/2020, whereby Illu was directed to be released on bail, indicates that this court was of the view that he could not be treated in the same manner as the other co-accused because his alleged role is simply that he had come into the house with the co-accused and fled with them. The petitioner had sought out Charanjeet Singh and the prosecution's case is the same was done with the intention of killing him. Rohit had allegedly fired the weapon.

8. The allegations against the petitioner are serious. The prosecution's apprehension that the petitioner may influence the eye witnesses if he is released at his stage is not insubstantial.

9. In view of the above, this Court is not inclined to accede to the petitioner's prayer at this stage.

10. The trial court is directed to examine the eye witnesses' in precedence to other witnesses. The petitioner is at liberty to apply after the eye witnesses have been examined.

VIBHU BAKHRU, J

SEPTEMBER 8, 2020
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