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

% *Order pronounced on 05.09.2022*

+ BAIL APPLN. 1441/2022

HARENDER MAAN

..... Petitioner

Through: Mr. Mudit Jain, Mr. Abhiraj Ray and  
Mr. Mukul Malik, Advocates.

versus

STATE

..... Respondent

Through: Mr. N.S. Bajwa, APP for State.

**CORAM:**

**HON'BLE MR. JUSTICE TALWANT SINGH**

**Talwant Singh, J.:**

1. This is a bail application u/s 439 Cr.P.C. by and on behalf of the applicant for grant of regular bail in case FIR No. 0360/2021 under Sections 307/120B/34/201 IPC and 25/27/54/59 Arms Act (FIR was initially registered under Sections 307/34 IPC and 25/27 Arms Act) dated 18.10.2021, registered at PS Kishangarh.
2. It has been submitted on behalf of the petitioner that his uncle Sh. Ashok Mann was brutally murdered in broad day light on 12.02.2020 and the present applicant had witnessed the entire event and he was also injured in the incident. The attackers in the said case were Somraj @ Dhmi, Devender @ Dev and Kalu. A case FIR No. 0057/2020 was registered at PS Kishangarh in this regard. Somraj @ Dhmi was later on released on bail but the other two accused are still in custody. In order to pressurise the present applicant, a false story has been concocted that on 18.10.2021, when



Somnath @ Dhami was returning after attending the Court in case FIR No. 0057/2020, he was accosted by unknown men who shot multiple rounds at his Toyota Fortuner vehicle. Somnath @ Dhami escaped unharmed and lodged the present FIR bearing No. 0360/2021. Within 24 hours, the Special Cell of Delhi Police nabbed the alleged shooters in another case.

2.1. The said Somnath @ Dhami had in the past approached the applicant and his family members to take back their statements in exchange for money and the present FIR is also an attempt to pressurise the applicant and his family members. The applicant has been pursuing the case regarding the murder of his uncle. The brother of the applicant Puneet Maan was detained by the police for more than 48 hours between 20.10.2021 to 23.10.2021 and he was tortured. Out of fear, the present applicant and his entire family were forced to flee and non-bailable warrants were issued against the applicant and his family members. He surrendered before the Court on 28.10.2021.

2.2. The widowed Aunt of the applicant/accused Smt. Bimlesh Mann has been admitted to anticipatory bail. She has joined the investigation. The charge-sheet has been filed and applicant/accused has been charged for offences punishable under Sections 201 and 120B IPC.

2.3. In the charge-sheet, reliance has been placed only on the disclosure statement of accused persons and there is no material on record showing the involvement of the applicant/accused in the present case. Accused Manjeet Singh @ Mahal is stated to be the master mind of the alleged incident.

2.4. Brother of the applicant was granted regular bail by learned Addl. Sessions Judge on 11.04.2022. This relief was denied to the present applicant on the ground that he was named in the FIR and the allegations against the present applicant are grave in nature.



2.5. The petitioner has prayed bail on the ground of parity as three other accused persons, namely, Smt. Bimlesh Mann, Mukesh @ Sonu and Puneet Maan are already on bail. The second ground of bail is that the learned Judge has failed to appreciate that the present case is nothing but an attempt to pressurise and coerce the applicant and submissions made on behalf of the petitioner were not adequately dealt with in the order rejecting his bail. It has been further submitted that the present case is nothing but an oblique motive to pressurise the applicant. Since, the accused/applicant has been charge-sheeted for the offence punishable under Sections 201 and 120B IPC, so the substantive offence under Section 307 IPC and relevant provisions of the Arms Act are not made out against him. The accused/applicant has a potent defence which he shall be proving during trial. There is no possibility of tampering with the evidence influencing the witness or fleeing from justice.

2.6. The other ground for seeking bail are that disclosure statement of a co-accused cannot be used against the applicant; there is no possibility of conclusion of trial in the near future and no further enquiry has to be made from the present petitioner; hence bail has been prayed.

3. The status report has been filed. The role of the present petitioner, as per the status report, is that he alongwith his Aunt Bimlesh Mann and brother Puneet Maan, had hatched a conspiracy and hired the shooters to eliminate Somnath @ Dhami to take revenge of the murder of his uncle Ashok Maan who was murdered in February, 2020.

3.1. The bail has been opposed on the ground that applicant has a direct link with the main gangster Manjeet and he may again hire the shooters to eliminate the witnesses or the complainant. Name of the petitioner is



mentioned in the present FIR itself. The petitioner is not entitled to any benefit of parity; Smt. Bimlesh Maan is not cooperating in the investigation and the injured is still not in a position to make statements or to walk or talk.

4. I have heard arguments addressed by learned counsel for the petitioner, learned APP as well as learned counsel appearing for the complainant.

5. It is to be noted here that the anticipatory bail application filed by co-accused Bimlesh Maan, being bail application No. 267/2022, was disposed of on 07.03.2022 and it has been observed in the said order as under:-

*“8. After hearing both the sides and going through the judgments cited, it is clear that as on date, the only circumstance which emerges against the present petitioner is the disclosure statements of the accused. The prosecution had initially tried to link her with the other accused persons/assailants on the basis of the CCTV footage but now the FSL report has come on record and as per the said FSL report, the CCTV footage for the relevant period is missing. There cannot be a presumption in law that it is the petitioner who had switched off the camera during the relevant period. There is nothing on record even today to pinpoint the role of the petitioner in this crime.*

*13. It is true that there cannot be any direct evidence of the conspiracy as the same has to be inferred from the prevailing circumstances but there has to be some evidence on record to connect the present petitioner with the assailants apart from their own disclosure statements to make out a case of criminal conspiracy.”*

6. The other co-accused Puneet Maan, who is the brother of the present accused and against whom similar allegations were made, was granted regular bail vide order dated 11.04.2022. The said order is reproduced hereunder:-



*“Present is an application moved on behalf of applicant/accused Puneet Maan for grant of bail. It is submitted that applicant/accused has been falsely implicated in the present case which has been lodged by the complainant with a sole motive to pressurize them to take back the case FIR No. 57/2020 u/s 302 IPC lodged by the accused persons against the complainant and his other associates. It is further submitted that there is no incriminating material available on record except the disclosure statement of coaccused to connect the applicant/accused with the commission of the alleged crime. It is submitted that charge-sheet in the instant matter has already been filed and no fruitful purpose would be served by keeping him behind the bars as trial in the instant matter is likely to consume considerable time. It is further submitted that co-accused Bimlesh Maan and Mukesh @ Sonu have already been enlarged on bail.*

*Ld. Addl. PP has vehemently opposed the bail application arguing that applicant/accused alongwith his other associates hatched a conspiracy and hired them to eliminate the complainant in order to take revenge of the murder of his uncle for which FIR No. 57/2020 was lodged against the complainant and his other associates.*

*Except for the disclosure statement of the accused persons, Ld. Addl. PP has failed to point out any incriminating piece of evidence against the applicant/accused.*

*Considering the period of incarceration, grounds of parity, nature of allegations against the applicant/accused and the fact that investigation has already been concluded, applicant/accused Puneet Maan is admitted to bail on his furnishing bail bond in the sum of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Ld. MM/ Duty MM/Link MM. It is clarified that the bail bonds in the instant matter shall be accepted after verification of the same.”*



7. The bail application of the present applicant was dismissed by the learned ASJ vide order dated 27.04.2022 by differentiating his case as under:-

*The applicant/accused has been specifically named in the FIR. the allegations against the applicant/accused are grave and serious in nature. The applicant/accused is not entitled to bail on the ground of parity with other accused persons as the applicant has been specifically named as the person having enmity with the complainant and having committed the alleged offence. The complainant is stated to be having threat from the applicant/accused. Considering the nature and gravity of offence and role of the applicant/accused, I am of the considered opinion that it is not a fit case allowing the applicant/accused Harender Maan to be enlarged on bail. Hence, the application under Section 439 Cr.P.C. moved on behalf of applicant/accused Harender Maan is accordingly dismissed."*

8. The above order has only placed one additional fact, i.e., the accused has been named in the FIR and the complainant has a threat from the applicant/accused. The allegations against the present accused as well as co-accused Puneet Maan are almost same. The only difference on which the bail application has been denied to the present petitioner is that he has been named in the FIR. This difference cannot be a ground to deny parity, while considering the bail application of co-accused, who has almost similar role, as alleged by the prosecution.

8.1. Moreover, the present applicant/accused is in custody since 28.10.2021. The charge-sheet has been filed and the accused is no longer required for any further investigation. The victim/injured who was initially



admitted in Fortis Hospital, later on shifted to AIIMS Trauma Centre, was discharged and as per the Status Report, his treatment is going on. No useful purpose will be served by detaining the present applicant/accused in jail any further.

9. Petitioner is ordered to be admitted to regular bail on execution of personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of the concerned Court, subject to the following conditions:-

- (i) The applicant/accused shall furnish his mobile number to the police and keep the GPS location always on of the said mobile phone;
- (ii) the applicant/accused shall not contact/coerce or threaten the complainant/injured and the witnesses in the present matter;
- (iii) the applicant/accused shall not leave territorial jurisdiction of this Court without seeking permission from the concerned Court;
- (iv) the applicant/accused shall appear before the Trial Court on each and every date.

10. If the petitioner is involved in another crime of the similar nature, the complainant as well as the Investigating Officer, is at liberty to move an application for cancellation of the bail.

11. The bail application is disposed of with the above directions.

**TALWANT SINGH, J**

**SEPTEMBER 05, 2022/mr**

[Click here to check corrigendum, if any](#)