

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

% *Date of decision : 10.03.2023*
+ **BAIL APPLN. 351/2023**

RAVI KAPOOR

..... Petitioner

Through: Ms. Dimple Vivek, Advocate.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the
State with Insp. Vipin Kumar,
P.S.Vasant Kunj.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. This matter is taken up today as 09.03.2023 was declared holiday.
2. The present bail application is filed under Section 21(4) of MCOC Act and Section 439 of Code of Criminal Procedure, 1973, seeking regular bail in case FIR No.481/2008 dated 30.09.2008, under Section 302/120B of Indian Penal Code, 1860, Section 25 of Arms Act and Section 3 of MCOC Act registered at Police Station Vasant Kunj.
3. It is submitted by the learned counsel for the petitioner that petitioner was arrested in the present case on 28.03.2009 and since then he was never granted interim bail or regular bail during the entire trial. It is further submitted that after the filing of the chargesheet the

charges in the present case were framed on 18.04.2011, three years after registration of the FIR. It is further submitted that prosecution evidence concluded on 03.03.2022 and even the statement of accused person were concluded on 23.08.2022. It is also submitted by learned counsel for the petitioner that when the matter was listed for final arguments, learned APP for the state had made the oral request before the learned Trial Court for recalling of 3 witnesses i.e. PW-51, PW-52 (both police officials and their Examination-in-Chief got conducted on 22.03.2019) and PW-86, such request was allowed vide order dated 11.10.2022 without giving opportunity to petitioner to oppose the said request as considerable time had elapsed. It is further submitted that it is well settled principle of Law that a person cannot be kept in custody indefinitely and the Right to Life and Personal Liberty as granted by the Constitution of India also covers the Right to Speedy Trial and in the present case the petitioner is in custody for a significant period of time. It is further submitted that petitioner has deep roots in the society and has family to support and trial will take time. Lastly, it is prayed that petitioner be granted regular bail.

4. Learned counsel for the petitioner has placed reliance on ***Dara Singli and Others Vs State of Maharashtra decided on 03.08.2021*** and ***Pundlik Ukla Pawar and Ors. Vs State of Maharashtra decided on 14.07.2020*** to contend that mere filing of chargesheet of previous offences cannot constitute MCOC Act unless there is substantive crime in continuation of organised crime under Section 3(1)(ii) and Section 3(4) of MCOC Act.

5. On the other hand, learned APP for the State while vehemently opposing the present bail application has argued on the lines of the status report and submitted that allegations against the petitioner are grave and serious in nature. It is further submitted by him that the petitioner has actively participated in the crime and he shared common intention with other co-accused persons. It is further submitted that the present case is an old case and trial is now at the fag end. It is further submitted that statement of accused under Section 313 Cr.P.C. had already been recorded and the accused had not opted to lead defence evidence. It is further submitted that the accused does not have clean past antecedents which shows that he has propensity to commit crime. It is further submitted that bail may not be granted at this stage as the petitioner is accused of an offence punishable with imprisonment for life.

6. In the instant case, the allegations against the petitioner are grave and serious in nature. The petitioner is allegedly involved in serious offence of murder. The statement of accused under section 313 Cr. P.C. has already been recorded and the accused has not opted to lead defence evidence. As per the status report, present petitioner does not have clean past antecedents as he is convicted in another case FIR No. 69/2009 for the offences under Sections 302/365/34 IPC. The trial is at the fag end, therefore, looking into the nature and gravity of the offence and the allegations against the petitioner which are very serious in nature, and without commenting on the merits of the case, I

am not inclined to grant regular bail to the petitioner, the application is, therefore dismissed.

7. At this stage, it is prayed by the counsel for the petitioner that the Trial Court may be directed to examine 3 PW's who were recalled by the learned Trial Court vide order dated 11.10.2022 as expeditiously as possible.

8. In these circumstances, the Trial Court is directed to examine 3 PW's recalled vide order dated 11.10.2022 within 4 weeks from the next date of hearing before the Trial Court.

RAJNISH BHATNAGAR, J

MARCH 10, 2023/ib