

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

% *Date of decision : 01.05.2023*

+ **BAIL APPLN. 551/2023**

NITIN KHASANA @ KASANA

..... Petitioner

Through: Mr. C. S. S. Tomar, Ms. Shivam Kumar, Mr. Harshit Shishodia, Mr. Deepak Shah and Ms. Aparna Singh, Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Priyanka Dalal, APP for the State with SI Ravi Poonia, PS Dayalpur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. The present application is filed under Section 439 read with Section 482 Code of Criminal Procedure, 1973, for grant of bail in case FIR No.537/2022, under Section 307/34 of Indian Penal Code, 1860, registered at Police Station Dayalpur.

2. In brief, the facts of the case are that on 19.08.2022, complainant had heated arguments with the present petitioner during which the present petitioner threatened him to life and later on the same day, the present petitioner along with the co-accused, namely, Paltu @ Aalu stabbed the complainant with knife in the abdomen.

Thereafter, the complainant was removed to the hospital where the MLC was conducted and the injury was opined to be grievous in nature. As a result, the present FIR No. 537/2022 under Sections 307/34 of the Indian Penal Code, 1860 was registered against the present petitioner and the investigation was taken up.

3. Learned counsel for the petitioner submits that the petitioner is seeking parity with the co-accused, namely, Divakar Sharma @ Paltu @ Aalu, who was granted regular bail by the learned Trial Court vide order dated 22.04.2023. He further submits that the petitioner is in judicial custody since 21.08.2022 and the role of the present petitioner is that he inflicted one knife injury to the complainant. He further submits that the injured was discharged on the next day and the knife has already been recovered. He further submits that knife was sent to the FSL, a report therefrom has not been received yet. He further submits that chargesheet has been filed and nothing has to be recovered from the petitioner and there are no chances of petitioner's tempering with the evidences. He prays that as the trial will take time, the petitioner be released on bail.

4. 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 submits that petitioner is not entitled to parity with the co-accused as the allegations against the co-accused is only of giving a blow on the eye-brow of the complainant whereas the role assigned to the petitioner is that of giving knife injury on the abdomen of the complainant and the injury was opined to be grievous in nature.

She further submits that complainant is yet to be examined and the recovery has also been effected at the instance of the petitioner.

5. In the instant case, the FSL report has not yet been received and though the charges have been framed but no witness has been examined till date. There is nothing before this Court to believe that the petitioner would temper with the evidence if released on bail. Moreover, the injured was discharged on the next day.

6. Therefore, keeping in view the entire circumstances and the fact the petitioner is in judicial custody since 21.08.2022, the present bail application is allowed and the petitioner is admitted to bail on following conditions:

- (i) The Petitioner shall furnish personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Trial Court concerned;
- (ii) The petitioner shall provide his mobile phone number to the concerned Jail Superintendent and SHO of the concerned police station at the time of release, which shall be kept in working condition at all times;
- (iii) The petitioner shall not leave the NCT of Delhi without the prior permission of the learned Trial Court and shall reside at the address as per prison records;
- (iv) The petitioner shall not communicate with, or come into contact with any of the prosecution witnesses, or tamper with the evidence of the case.

7. With the above said directions, the present petition along with pending application, if any, is disposed of accordingly.
8. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.
9. A copy of this order be given *Dasti* as prayed.

RAJNISH BHATNAGAR, J

MAY 1, 2023

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