

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

Reserved on : 04.05.2023

%

Pronounced on : 24.05.2023

+ **BAIL APPLN. 758/2023**

VIKAS @ VISHU @ JONY

..... Petitioner

Through: Mr. Sahil Bhardwaj and Mr. Pankaj
Balayan, Advocates.

versus

STATE GNCT OF DELHI

..... Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Sanjeet, PS Narela and ASI
Narender.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No. 389/2021 under Sections 307/120B/34 IPC and Sections 25/27/54/59 Arms Act registered at Police Station Narela, Delhi.

2. In brief the facts of the case are that the present FIR had been registered at the instance of the complainant. It is alleged in the FIR that in the night of 19.08.2021 at about 10:00 PM, the present petitioner along with co-accused persons, namely, Aditya, Pradeep and Ashwani Khatri were present at the spot and the co-accused, namely, Aditya, fired with

pistol on the complainant but it was an unsuccessful attempt. Further, in order to save himself, the complainant ran towards the Ram Leela Maidan where he saw a car and a bike coming towards him which the present petitioner and co-accused, namely, Ashwani were riding. It is further alleged that in order to kill another person, namely, Sagar, all these accused persons attempted to murder the complainant. On the basis of the aforesaid allegations, the present case was registered.

3. I have heard the learned counsel for the petitioner, learned APP for the State and have also perused the record of the case.

4. Learned counsel for the petitioner submitted that the petitioner is falsely implicated in this case and the allegations leveled against the petitioner are false and frivolous. He further submitted that the petitioner is in judicial custody since 29.08.2021. He further submitted that the only role assigned to the petitioner is that of driving the motorcycle which is evident from the FIR. He further submitted that the co-accused, namely, Ashwani Khatri was granted regular bail on 23.07.2022 by the learned Trial Court and the role assigned to the co-accused is similar to the role of the petitioner, hence the petitioner seeks parity with the co-accused Ashwani Khatri. He further submitted that the CCTV footage in which the petitioner and the co-accused are visible is only because they were passing by the alleged spot area. Learned counsel for the petitioner further submitted that the chargesheet has been filed and at this stage, nothing is to be recovered from the petitioner. In support of his contentions, learned counsel for the petitioner has relied upon the judgment passed by this

Court in *Sumer Singh vs. State* in Bail Appln. 750/2007 and *Mahesh Kumar vs. CBI*, MANU/DE/3403/2013.

5. On the other hand, learned APP for the State while vehemently opposing the bail application argued on the lines of the status report and submitted that the allegations against the petitioner are serious in nature. She further submitted that petitioner was driving the alleged motorcycle and was seen behind the co-accused person who was having the pistol in his hand. She further submitted that the accused does not have clean past antecedents and he cannot claim parity with the co-accused person. She further submitted that trial is yet to commence and releasing the petitioner on bail at this stage would hamper the trial and also he may influence the witnesses and temper with the evidence of this case.

6. In the instant case, co-accused person, namely, Ashwani Khatri has already been released on bail. The present petitioner is in judicial custody since 29.08.2021 and the role assigned to the petitioner in the FIR is that he was driving the motorcycle. There are no allegations against the petitioner that he has tried to temper with evidence or threatened the witnesses in any manner or the petitioner is a flight risk.

7. Therefore, keeping in view the entire facts and circumstances the petitioner is entitled to parity with the co-accused, namely, Ashwani Khatri and no useful purpose will be served by keeping the petitioner in judicial custody.

8. Consequently, the present bail application is allowed and the petitioner be released on bail on his furnishing a personal bond in sum of

₹ 25,000/- with one surety of like amount to the satisfaction of learned Trial Court concerned.

9. With the above observations, the present petition along with pending applications, if any, is disposed of accordingly.

10. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

11. A copy this order be communicated electronically to the concerned jail authorities.

RAJNISH BHATNAGAR, J

MAY 24, 2023/_p

