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

+ **BAIL APPLN. 2432/2023**

NASEEB

..... Petitioner

Through: **Mr. Gagan Bhatnagar, Mr. Inderpreet Singh and Mr. Mayank Batra, Advs.**

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: **Mr. Amit Sahni, APP for the state with Inspector Omvir Dabas, PS Bawana**

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Date of Decision: 04.09.2023

**CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present bail application has been filed for grant of regular bail in case FIR No. 47/2019 registered at P.S. Bawana under Section 302/120B/34 IPC & 27 Arms ACT.
2. Briefly stated the case of the prosecution is that on 09.02.2019, a call was received vide DD No. 28A at PS Bawana from Mahrishi Valmiki

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Hospital, Pooth Khurd, Delhi regarding the admitting of patient Karan s/o Ram Ratan Pardhan r/o H.No. 92, Sultanpur Dabas, Delhi age 23 years with gun shot injuries by his sister Seema vide MLC No, 571/19. I.O./ASI Raj Kumar reached the hospital where patient Karan was declared brought dead by doctor. The dead body of deceased was shifted to mortuary BSA Hospital for further proceedings. The crime scene was inside a plot while going from Bawana-Kanjhawala Road to Village Sultanpur Dabas. On the basis of facts and circumstances, case FIR No. 47/2019 US 302 IPC & 25/27 Arms Act PS Bawana. Delhi was registered and investigation was handed over to Inspector Dharamdev, PS Bawana.

3. During the course of investigation, statements of eye witness Ms. Seema (sister of deceased) was recorded who stated that four boys had came at Shiva Farm in a Scorpio Vehicle and had asked her for her brother Karan @ Monu and went inside. In the meantime, she heard sound of gunfire and saw those four boys fleeing from there while her brother was injured. She, with the help of neighbors, took her brother Karan @ Monu to Mahrishi Valmille hospital, Pooch Kalan where he was declared dead. Later on, some photos of suspected persons were shown to Ms.Seema, who raised suspicion on two photos, one of Parveen Sabharwal and petitioner. That on 02/04/2019, it was informed that the accused Lokesh @Kartik has been arrested in Case FIR No. 169/2019 u/s 25 Arms Act PS Beri Distt. Jhajjar, Haryana who disclosed his involvement in present case.



On 06/04/2019, accused Monu @Aryan and Naseeb (applicant) were arrested by Special Cell/NDR, Della, who also disclosed their involvement in present case.

4. All three accused persons denied for TIP Proceedings. Weapons of offence have been recovered from all the accused persons. It has further been submitted that the present applicant Naseeb and co-accused Monu@Aryan both disclosed that they came in contact with associate Parveen Hooda r/o Jhajjar, Haryana on 01/02/2019, wherein he murdered uncle of Parveen Hooda. Consequently, on 09/02/2019, they went at Shiva Farm, Sultanpur Dabas and shot victim Karan @Monu. Both, Monu @ Aryan and Naseeb were arrested on 28/03/2019 by Special Cell/NDR, Delhi. After investigation, the chargesheet was filed in the Rohini Courts where Total 47 witnesses were cited as PWs in main chargesheet and 11 witnesses were cited as PWs in Supplementary charges.
5. The learned counsel for the Petitioner submits that in the present case the two material witnesses i.e., the father, namely, Ram Rattan and sister Seema Devi had already been examined and have turned hostile. learned counsel for the Petitioner submits that out of the 47 witnesses only 7 have been examined. Learned counsel submits that the petitioner is in custody since 10.04.2019, the trial may take long time and therefore, the Petitioner may be admitted to bail.



6. The learned counsel for the petitioner has also submitted that the learned trial Court has fallen into error by mentioning that the Petitioner is involved in case FIR No. 7624/2014 u/s 302/307/120(b)/34 IPC and section 25/27 of Arms Act, P.S. Subhash Place.
7. Learned counsel for the Petitioner submits that even as per the status report filed by the prosecution, the petitioner is involved only in three cases i.e., Case FIR No. 52/2019 u/s 25 Arms Act PS Special Cell, Delhi, Case FIR No. 06/2019 W/s 148/149 IPC & 25 Arms Act PS Dujana, Haryana and Case FIR No. 39/2019 u/s 365/302/148/149 IPC & 25 Arms Act PS Civil Line, Rohtak, Haryana, other than the present case.
8. Learned counsel for the Petitioner submits that Petitioner has already been granted bail in case FIR no 39/2019 u/s 365/302/148/149 IPC & 25 Arms Act by the Punjab and Haryana High Court order dated 04.05.2023 petition bearing no. CRM-M-11767-2023.
9. Learned APP has vehemently opposed the bail application and has submitted that the Petitioner is habitual criminal as he is involved in other cases also. Learned APP further submits that if the petitioner is released on bail he may commit another offence.



10. I have considered the submission for grant of bail in heinous offences as is laid down in ***Kalyan Chand Sarkar v. Rajesh Rajan*** 2004 SCC OnLine SC 315 where it has inter-alia been held as under:

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- (c) Prima facie satisfaction of the court in support of the charge.”*

11. It is a matter of record that the learned Trial court has admitted the co-accused Monu @ Aryan on bail vide order dated 04.03.2023, taking into account that father Ram Rattan and sister Seema of the deceased do not support the case. The court at the stage of bail is only required to see the prima facie case. The detention duration trial cannot be punitive in nature.



12. Taking into account the facts and circumstances, the petitioner is admitted to bail on furnishing a personal bond of Rs.50,000/- with the surety of like amount to the satisfaction of the trial court subject to the following conditions:

- a. That during the period of bail, the accused shall not try to contact directly or indirectly or through any of the electronic mode to the complainant and family members of the deceased or any public witness.
- b. That during the pendency of the trial of this case FIR, the accused shall not get himself involved in any other offence.
- c. The accused shall not leave the country without prior permission of the court.
- d. That during the period of bail, the accused shall furnish all his mobile numbers to the concerned IO/SO.
- e. In case of change of address or mobile number, the accused shall inform the same to the trial court.
- f. The accused shall attend the trial regularly.

13. However, it is pertinent to mention that nothing expressed herein shall tantamount to be an expression on the merits of the case.

14. The present bail application is disposed of.

15. Copy to be sent to the concerned Jail superintendent.



DINESH KUMAR SHARMA, J

SEPTEMBER 4, 2023/rk

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