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

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Date of Decision: 21.08.2023

+ BAIL APPLN. 2751/2023

RAMDEV@AMAN

..... Petitioner

Through: Ms. Dolly Sharma, Advocate

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for State
with SI Bajrang, PS Patel Nagar

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

CRL.M.A. 22235/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of petitioner seeking grant of regular bail in case FIR bearing no. 329/2020 registered at Police Station Patel Nagar, Delhi for offences punishable under Section 307/506/201/120B/34 of Indian Penal Code, 1860 ('IPC') and Section 25/27 Arms Act, 1959.
4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on



behalf of the State.

5. Brief facts of the present case are that on 10.07.2020, at about 5:40 PM, when the complainant Mr. Lakshay Nagpal had reached near HDFC Bank East Patel Nagar, two boys had come on a motorcycle and the boy sitting on the rear seat of motorcycle had shot at complainant. As a result, the complainant had suffered a gunshot injury on his right buttock. The complainant was taken to Dr. BLK Hospital, Rajendra Place for treatment where his MLC was prepared and the injury was opined to be grievous in nature. The statement of complainant was recorded wherein it was stated by him that his sister had got married to co-accused Vishal Sharma about 5 years back, but they had got divorced in October, 2019. However, he had been extending threats to kill the complainant and his brother and thus, the complainant had stated that he would have been attacked by co-accused Vishal Sharma. Thereafter, the present FIR was registered for the offences punishable under Sections 307/506/201/120-B/34 of IPC and Section 25/27 of Arms Act. The present applicant was arrested on 14.07.2020.

6. Learned counsel for the applicant argues that the main accused namely Vishal Sharma, who was the main conspirator as per the statement of complainant, has already been granted bail by this Court and the present applicant is also entitled to bail on the ground of parity. It is also stated that the said co-accused, who has been granted bail, has criminal antecedents whereas the present accused/applicant has no criminal case pending against him. It is stated that the applicant had earlier been released on bail as per HPC guidelines and thereafter had also been released on interim bail once and he had not misused the



liberty of bail granted to him. Therefore, it is prayed that bail be granted.

7. Learned APP for the State, on the other hand, argues that the CCTV footage as well as the statement of complainant and the Call Detail Records support the prosecution story that the applicant is the main accused in the present case who had caused gunshot injury to the complainant.

8. I have heard the rival contentions raised on behalf of both the parties and have perused the material placed on record.

9. In the present case, the complainant had been shot at his right buttock and as per the MLC, the gunshot injury received by him was opined to be grievous in nature. During investigation, the analysis of CCTV footage and examination of Call Detail Records had revealed the presence of co-accused Akshay and of present applicant Ramdev at the spot of incident. At the time of arrest of present applicant, a country-made pistol alongwith its magazine was recovered from his possession and the clothes, shoes etc. of the applicant had matched with those of the rider on the motorcycle, as seen in CCTV footage of incident, who had shot at the victim. During judicial TIP, the victim had identified the present applicant as the person who had shot at him on the day of incident.

10. Having observed so, the contention of the learned counsel for the applicant that co-accused Vishal, who has been granted bail, was the actual and main conspirator, has no merit since the present accused/applicant was present at the spot who had shot at the victim with pistol, and he has been identified not only by the victim but his



presence is also proved at the spot by the CCTV footage. Parity cannot be claimed as a matter of right especially in case of mark difference in the roles of the accused persons and it is also to be taken note of that granting bail is a judicial function which has to be exercised after application of mind to the facts and circumstances of the case as well as to the particular role of the accused before the Court.

11. Further, the argument that the co-accused who has been granted bail had been previously involved in two other criminal cases and the present accused has none, does not find favour with this Court since an accused who commits a heinous offence but has no criminal history cannot automatically become entitled to bail on this ground when the facts, circumstances and supporting evidence point out to the specific role of accused in a heinous offence. Similarly, only because a person has one or two cases pending against him does not automatically dis-entitle such person to bail even if his role in the offence in a given circumstance may be less graver. The present case is a case of attempt to commit murder and hatching the conspiracy to do so, and the roles of accused persons have to be seen at this stage according the statement of the witnesses and the other evidence collected by the investigating agency.

12. Thus, this Court is of the opinion that the role of the present accused/applicant is of firing at the victim with the pistol and as discussed above, his presence at the spot is reflected in the CCTV footage and corroborated with the CDRs and the statement of victim. The material witnesses in the present case are yet to be examined. Considering the overall facts and circumstances of the case, no case for



grant of bail is made out at this stage.

13. Accordingly, the present application stands dismissed.

14. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 21, 2023/dk