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

+ **BAIL APPLN. 3359/2022**

VIKAS PANDEY

..... Petitioner

Through: Mr. K.C. Mittal with Mr. Yugansh
Mittal and Mr. Nitin Kaushik, Advs.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Raghuvinder Varma, APP for the
State with SI Mahesh, PS Alipur.

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Date of Decision: 20th February, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present bail application under Section 439 Cr.P.C. has been filed in case FIR No.151/2021 dated 05.04.2021 under Sections 307 IPC, 1860 and 25/27 Arms Act, 1959 registered at Police Station Alipur.

2. Learned counsel for the petitioner submits that the petitioner is in custody since 05.04.2021. Learned counsel for the petitioner submits that that the chargesheet has been filed under Sections 307/34 IPC and 25/27 Arms Act. It has also been submitted that the other remaining co-accused have already been granted bail by the learned Trial Court. Learned counsel for the petitioner submits that without going into the merits of the case and taking into consideration the length of detention of the present petitioner, he may be granted bail.

3. Learned counsel for the petitioner has placed reliance upon the orders

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dated 02.09.2022 of the Supreme Court in ***Rahul Chandila vs. State of Uttar Pradesh*** in Criminal Appeal No.1407/2022 arising out of SLP(Crl.) No.7842/2022 and ***Ragni Pandey vs. State of Madhya Pradesh*** in Criminal Appeal No.1411/2022 arising out of SLP(Crl.) No.6187/2022.

4. Learned Addl. P.P. for the State has opposed the bail application. Learned Addl. P.P. for the State submits that as per his instructions, it was the petitioner who fired the gunshot on the injured and also directed the other co-accused to assault the complainant. Learned Addl. P.P. for the State submits that therefore the petitioner may not be admitted to bail. Learned Addl. P.P. for the State also submits that as per his instructions, the petitioner was the main perpetrator of the crime. Learned Addl. P.P. for the State further submits that as per his instructions, the injured has been discharged from the hospital.

5. I have considered the submissions and perused the hospital record. The petitioner is in custody since 05.04.2021. There is no record of any other involvement of the accused. Even as per the statement under the Section 161 Cr.P.C. of the complainant dated 29.05.2021, the first gunshot was fired by Nonu @ Vikrant. The complainant had stated that after he fell down, the present petitioner had also fired a gunshot. It has been submitted that the injured has also been discharged from the hospital.

6. It is settled law that the basic rule of criminal justice system is bail and not jail. The Supreme Court and this Court have time and again reiterated that the Court must enforce this principle in practice. It has to be borne in mind that the denial of bail amounts to deprivation of personal

liberty. It has also been submitted that the co-accused have already been admitted to bail.

7. Taking into account the totality of facts and circumstances of the case and without going into merits of the case, the petitioner is admitted to regular bail on his furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the trial court, subject to the following conditions:

- a) The petitioner shall not directly or indirectly contact the injured person and his family members in any manner.
- b) the petitioner shall not make any inducement, threat or promise to any person acquainted with the facts of the case;
- c) the petitioner shall provide his/her mobile number(s) to the Police Officer In Charge of the case and keep it operational at all times;
- d) in case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Police Officer In Charge of the case / Court concerned by way of an affidavit.

8. With the above directions, the present bail application stands disposed of.

9. Copy of the order be sent to the concerned Jail Superintendent for information and compliance.

DINESH KUMAR SHARMA, J

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