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

+ **BAIL APPLN. 134/2024**

ABHISHEK@BHOLA

..... Petitioner

Through: Mr. Anil Kr. Basoya, Mr. Manish Kumar, Mr. Rohit Lohia and Mr. Amit Kumar, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Manoj Pant, APP for the State with SI Pankaj, P.S. Ambedkar Nagar.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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11.01.2024

CRL.M.A. 1058/2024 (exemption)

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

BAIL APPLN. 134/2024

3. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 181/2018, registered at Police Station Ambedkar Nagar, Delhi for the offences punishable under Sections 307/34 of the Indian Penal Code, 1860 ('IPC').
4. Issue notice. Mr. Manoj Pant, leaned APP accepts notice on behalf of State.



5. Brief facts of the case are that on 16.04.2018, in the evening, while the complainant/injured was coming from Sunder Nagar, Delhi and was going towards Madangir, he was assaulted and beaten by accused persons i.e. Abhishek @ Bhola (applicant), Aman @ Yogi and Manu @ Arun, near Chirag Delhi Flyover and the accused persons had fired at the injured who had sustained gunshot injuries over his head and legs.

6. Learned counsel for the applicant argues that the applicant has been falsely implicated in the present case. It is argued that the present FIR has been registered after a delay of around 07 hours and the same has not been explained by the complainant. It is also argued that PW Pooja is not traceable for last six years and she seems to be a planted witness since she had neither made any call to the police nor had she taken the injured to the hospital. It is argued that co-accused Monu @ Arun having graver role of firing on the injured has already been granted bail by the learned Sessions Court vide order dated 19.07.2022. It is argued that the role assigned to the applicant is of holding the injured, therefore, the applicant is entitled for regular bail on the basis of parity.

7. Learned APP for the State submits that 10 witnesses out of 18 have already been examined. It is further stated that present applicant has several other previous involvements. However it is fairly admitted that PW Pooja, who is the only eye witness in this case, is not traceable.

8. This Court has heard arguments addressed on behalf of learned counsel for the applicant and learned APP for the State and has perused the material on record.

9. It is admitted case of the prosecution that the complainant/injured has already been examined before the learned Trial Court. The accused is in



judicial custody for more than six years. The only eye-witness who now remains to be examined i.e. public witness Pooja is not traceable and this report has already been filed before the learned Trial Court. The learned Trial Court has also mentioned this fact in order dated 19.07.2022 *vide* which the co-accused Monu @ Arun has been granted regular bail.

10. Keeping in view all the facts and circumstances of the case and that the accused is in custody since 20.04.2018, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.25,000/- with surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- ii) The applicant shall provide his contact number to the IO concerned, on which he can be contacted if required.
- iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.

11. The bail application stands disposed of.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 11, 2024/zp

Click here to check corrigendum, if any