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

+ **BAIL APPLN. 390/2024**

SURAJ

..... Petitioner

Through: Ms. Santosh Dixit, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Sachin Kumar, P.S. Nand
Nagri.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

02.04.2024

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1. The instant application has been filed under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') by the applicant seeking grant of regular bail in case arising out of FIR bearing No. 601/2020 registered at Police Station Nang Nagri, Delhi for offences punishable under Sections 307/34 of the Indian Penal Code ('IPC') and Sections 27/54/59 of Arms Act, 1959.
2. Briefly stated, it is the case of the prosecution that on 11.09.2020 at about 7:00 PM, the complainant was standing near a tea stall at C2 BLK Nand Nagri, opposite BSES office and the accused persons including the present applicant/accused had fired gunshots upon the complainant, he had somehow rushed and had entered the house of one Jony. In the meanwhile, the present applicant/accused along with co-accused persons had followed



the complainant and had again fired gunshots towards the complainant through a window, due to which the complainant had sustained injuries on his right and had waist. Therefore, the present FIR was registered.

3. Learned counsel for the applicant argues that the applicant/accused has been falsely implicated in the present case. It is submitted that no specific role has been attributed to the applicant. It is also submitted that the eye witnesses of the case i.e., PW-3 and PW-4 have turned hostile and have not supported the case of the prosecution. Moreover, both eye witnesses failed to identify the present applicant/accused. It is further stated that no recovery has been effected from the present applicant/accused. Therefore, it is prayed that the applicant be released on regular bail.

4. Per contra, learned APP for the State vehemently opposes the present bail application and argues that the applicant is living in the same locality as the complainant. It is argued that the applicant may threaten the witnesses of the present case. Moreover, nature of the offence is heinous and the present applicant/accused was actively involved in the case. Therefore, it is prayed that the application filed by the applicant for grant of regular bail be rejected.

5. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record and has also gone through the testimonies of the witnesses.

6. It is not disputed that all the material witnesses have been examined. The Investigating Officer (IO) states that there is no previous criminal antecedent of the present applicant/accused. The present applicant/accused has been in judicial custody since last three years.



7. Considering the overall facts and circumstances of the case, and the fact that both the eye witnesses have not identified the present applicant/accused and have turned hostile and that the accused/applicant has been in custody for the last three years, this Court is inclined to grant regular bail to the petitioner on his furnishing personal bond in the sum of Rs.20,000/- 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 leave the country without prior permission of the concerned IO/SHO.
- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.

8. The bail application stands disposed of.

9. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 2, 2024/ZP

Click here to check corrigendum, if any