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

% **Date of Decision : 04.03.2024**

+ BAIL APPLN. 464/2024

VISHNU

..... Petitioner

Through: Mr. Rahul Tyagi, Advocate

versus

STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr Naresh Kumar Chahar APP for
the State with SI Vandana, P.S.
Anand Parbat, Delhi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J (ORAL)

1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C. ') has been filed by the applicant seeking grant of regular bail in case arising out of FIR bearing No. 0368/2021, registered at Police Station Anand Parbat, Delhi for offences punishable under Sections 326/308/34 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, facts of the present case are that on 20.08.2021 the case had been initially registered under Sections 326/308/34 of the IPC on the statement of an eye witness wherein she had alleged that the accused persons had attacked her relatives and as a result thereof they had sustained



injuries. Thereafter, the statements of the victims had been recorded under Section 161 Cr.P.C and on 06.09.2021 accused Manoj @ Bhaddi had surrendered before the learned Trial Court. During his interrogation the weapon used in the alleged offence had been recovered at his instance. But other accused persons were absconding and NBWs had been issued against them on 18.11.2021 and chargesheet against accused Manoj @ Bhaddi had been filed under Sections 307/34 of the IPC. Thereafter, another accused namely Karan @ Dolly had also been arrested on 14.02.2022 and supplementary chargesheet *qua* him was filed in the learned Trial Court. However, other three co-accused were still absconding. On 25.08.2023, proceedings under Section 82 Cr.P.C had been initiated against the other three accused persons. Thereafter on 11.10.2023, the accused Pawan and Vishnu had surrendered before the learned Trial Court and supplementary chargesheet *qua* them stand filed.

3. Learned counsel appearing on behalf of the applicant states that the accused/applicant has been falsely implicated in the present case. It is further submitted that no role has been attributed to the present applicant in the supplementary chargesheet. It is further submitted that the applicant is in judicial custody since 11.10.2023. Learned Counsel for the applicant further submits that as far as proceedings under Section 82 of the Cr.P.C is concerned, the applicant was under an apprehension of threat from other co-accused persons, and in order to ensure his safety, he had left his home. It was only after his neighbours had informed him regarding proceedings under Section 82 Cr.P.C initiated against him, that the applicant had



surrendered on 11.10.2023. It is further submitted that other two co-accused persons who are the key conspirators, and from whom weapon of offence has been recovered have already been granted bail by the learned Trial Court *vide* order dated 01.06.2022. It is further stated that the complainant, who is the eye witness in the present case i.e. PW-1 has turned hostile. Thus, the present applicant be enlarged on bail.

4. Learned APP for the State, on the other hand, opposes the present application and argues that in the instant case the applicant/accused had been absconding and proceedings under Section 82 Cr.P.C had been initiated against him. It was only after two years that the applicant/accused had surrendered before the learned Trial Court and then supplementary chargesheet was filed against him. Therefore, 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 placed on record.

6. This Court notes that in the instant case the other co-accused persons namely, Manoj @ Bhaddi and Karan @ Dolly have been granted bail by the learned Trial Court *vide* order dated 01.06.2022, on the ground that the complainant has settled the matter with the accused persons and he did not oppose the bail application of the said accused persons. It is not disputed that the present applicant had surrendered on 11.10.2023 and thereafter he has been in custody for a period of more than four months. The supplementary chargesheet qua the present applicant stands filed in the learned Trial Court and during recording of prosecution evidence PW-



1/complainant i.e. the eye witness has turned hostile. In these circumstances, this court is inclined to grant regular bail to the present applicant.

7. In view thereof, this Court is inclined to grant regular bail to the present accused/applicant on applicant furnishing a bail bond in the sum of Rs.25,000/- with one 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 remain available on mobile numbers; shared by him with the Police.
- (ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- (iii) The applicant will not leave the country without the prior permission of this Court and in case of change of residential address and/or mobile number, the same will be intimated to this Court by way of an affidavit.

8. In view of the same, the present application stands allowed.

9. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 4, 2024/ns