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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 500/2024**

GAURAV @GOLU

..... Applicant

Through: Adv. Pawan Kr. Shishodia,
Adv. Vaibhav Sharma &
Adv. Dushyant Kumar.

versus

THE STATE GOVT. OF NCT OF DELHI Respondent

Through: Mr. Utkarsh, APP for the
State along with Adv.
Ayushi Jain.
SI Amarjeet Rana, PS
Khyala/West.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

04.04.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 246/2022 dated 10.02.2022 under Sections 307/34 of the Indian Penal Code, 1860, registered at Police Station Khyala.
2. The FIR was registered on a complaint given by the injured alleging that on 09.02.2022, at around 9:00 p.m., when the complainant was waiting for his friends, the applicant and the other accused persons met the complainant and started demanding money for the purpose of buying drugs.
3. It is alleged that on the refusal of the same, the applicant caught hold of the applicant along with co-accused Dheeraj Mehta @ Noniya, and the co-accused Sahban @ Nonu, took out a surgical blade and inflicted injuries on the face of the complainant. It is further alleged that the complainant sustained

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multiple stab injuries on the scalp, face, neck and occipital region.

4. The learned Counsel for the applicant submits that there are cross FIRs against the applicant / accused and the complainant / victim and the other FIR bearing no. 247/2022, is registered against the present complainant / victim Baljeet Singh.

5. He submits that the entire alleged incident arises out of a quarrel that took place between the co-accused Saheban @ Nonu and the complainant. He submits that the present applicant has been implicated only for the reason that he is a friend of the co-accused Sahban @ Nonu.

6. He submits that no recovery of the alleged weapon (blade) of offence was effectuated from the present applicant and the same was recovered at the instance of co-accused Saheban @ Nonu. He submits that the complainant was in the hospital, for only 2 hours and the MLC of the complainant also states that the injuries were simple in nature.

7. He submits that the applicant has no criminal antecedents, is in custody for the past two years, the investigation in the present case is complete and the chargesheet has already been filed. The applicant is a young boy of 24 years of age and is in judicial custody since 10.02.2022.

8. The learned Additional Public Prosecutor for the state opposes the grant of present bail application.

9. He submits that the allegations in the present case are serious in nature and the present applicant was actively involved in the commission of the offence.

10. He submits that the although the nature of injuries is opined as simple in nature but the nature of object used is “Sharp Weapon” and the injuries were inflicted upon vital parts of the
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body of the complainant.

11. I have heard learned counsel for the parties.

12. It is not denied that the complainant and the applicant / accused were known to each other and the alleged incident arises out of a sudden quarrel that took place between the complainant and the applicant and the other accused persons.

13. The allegation against the present applicant is that he held the complainant while the co-accused inflicted injuries on the complainant. It is also not alleged that the applicant had himself given beatings to the complainant.

14. In the present circumstances, it cannot be said with certainty that the applicant was aware that the victim would be injured in the manner that has been alleged. It is also not alleged that the incision wounds were inflicted by the applicant.

15. The undertrial prisoners cannot be detained in custody for an indefinite period. It is a settled principle of law that bail is the rule and jail is an exception. The right to speedy trial and justice has been recognised as a Fundamental Right by the Hon'ble Supreme Court.

16. The speedy trial in the present case does not seem a possibility. Keeping the applicant in further incarceration would cause deprivation of his right to legal defence. The object of jail is to secure the appearance of the accused persons during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment without the guilt being proved. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time.

17. The applicant is a young boy of 24 years of age, with no criminal antecedents, and belongs to poor strata of society.

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Prolonged incarceration is bound to cause inexorable harm to the mental well being of an impressionable mind of such a young individual.

18. Considering the above and the fact that the applicant is in custody since 10.02.2022, and that the trial is likely to take a considerable amount of time, this Court feels that no useful purpose would be served by keeping the applicant in further incarceration.

19. Without commenting further on the merits of the present case and keeping in mind the facts and circumstances of the case, I am satisfied that the applicant has made out a case for grant of regular bail. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/-, with one sureties of the like amount to the satisfaction of the learned Trial Court/ Duty Metropolitan Magistrate, subject to the following conditions:

- a. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. He shall under no circumstance leave the Country without the permission of the learned Trial Court;
- c. He shall appear before the learned Trial Court as and when directed;
- d. He shall, upon his release, provide the address where he would be residing after his release and shall not change the address without informing the Investigating Officer/ SHO concerned; and
- e. He shall, upon his release, provide his mobile number to the Investigating Officer/ SHO



concerned, and shall keep it switched on at all times.

20. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and not be taken as an expression of opinion on the merits of the case.

22. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

APRIL 4, 2024

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