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

+ **BAIL APPLN. 459/2022**

WASEEM AHMAD

..... Applicant

Through: Ms.Vaishali Singh, Adv.
(through VC)

versus

STATE

..... Respondent

Through: Mr.Aman Usman, APP with SI
Amylaha.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

20.05.2024

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CRL.M.A. 15626/2024

1. For the reasons stated in the application, the same is allowed.
2. The bail application is, accordingly, restored to its original number.

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3. This application has been filed under Section 438 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for grant of anticipatory bail to the applicant in FIR No.0049/2022 registered at Police Station: Welcome, North-East District, Delhi under Sections 336/326 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 27 of the Arms Act, 1959 (in short, 'Arms Act').
4. It is the case of the prosecution that the above FIR was registered on the complaint of one Sameer Ansari / Complainant. It is stated that on 09.01.2022, the complainant along with his friend



Fardeen was at Abujav Medical St No.6, Kabir Nagar, Delhi. The applicant herein is the owner of the said medical store. At about 3:30 PM, Fardeen took the Complainant to a cabin, which was made at the back side portion of the medical store, and showed him a pistol and told him that this pistol was of the applicant. Thereafter, co-accused Fardeen loaded the pistol and brandished it in the air. He also fired a bullet which hit the Complainant near the stomach area. The Complainant was then taken to the JPC hospital from where he was referred to RML Hospital for treatment.

5. It is the case of the prosecution that co-accused Fardeen disclosed in his disclosure statement that after the incident, he had handed over the pistol to the applicant before taking the complainant to the hospital.

6. The learned counsel for the applicant submits that the applicant had been granted *interim* protection by this Court vide its Order dated 07.02.2022. Thereafter, he had joined the investigation. He submits that the other co-accused is on bail.

7. On the other hand, the learned APP, on instructions, admits that though the applicant purportedly joined the investigation, however, he is not cooperating in the same. He has also not disclosed, till date, the whereabouts of the weapon/pistol used in the offence.

8. I have considered the submissions made by the learned counsels for the parties.

9. As is evident from the above, the case of the prosecution is based on the statement of the Complainant that co-accused Fardeen told him that the pistol belongs to the applicant, and on the alleged



disclosure statement of the co-accused stating that he had handed over the weapon to the applicant before taking the injured/Complainant to the hospital. The applicant, however, denies having any role to play in the incident, including the possession of the weapon. The applicant has also appeared before the Investigating Officer (IO) and duly joined the investigation. Joining the investigation does not mean giving a confessional statement.

10. Considering the above, it is directed that in the event of arrest in FIR No. 0049/2022 registered at Police Station: Welcome, North-East District, Delhi under Sections 336/326 of the IPC and Section 27 of the Arms Act, the Applicant shall be released on Bail subject to furnishing a personal bond in the sum of Rs.15,000/- with one local surety of the like amount to the satisfaction of the IO/Arresting Officer/ SHO concerned, and further subject to the following conditions:

- (i) that the Applicant shall join the investigation as and when called by the IO/SHO concerned;
- (ii) that the Applicant shall not, directly or indirectly, try to contact/influence the complainant/victim or any other witness(s) or tamper with evidence of the case;
- (iii) that the Applicant shall furnish his mobile phone/landline number, which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned;
- (iv) that the Applicant shall provide his residential address to the IO/SHO concerned, and in the event of any change of the



same, will immediately inform the same to the IO/SHO; and,
(v) that the Applicant shall not indulge in any criminal activity;

11. Needless to state, any observation touching upon the merits of the case is purely for the purposes of deciding the question of grant of Anticipatory Bail and shall not be construed as an expression on the merits of the present case.

12. The Application is disposed of in the above terms.

NAVIN CHAWLA, J

MAY 20, 2024/ns/ss

Click here to check corrigendum, if any