



\$~27

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

+ **BAIL APPLN. 569/2024**

RAKESH KUMAR

..... Petitioner

Through: Mr. Anuj Aggarwal, Ms. Reema Singh, Mr. Vineet Kumar Jain and Mr. Abhishek Gupta, Advs.

versus

THE STATE GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Ritesh Kumar Bahri, APP for State with Insp. Randheer Kumar Ravi, PS. Civil Lines, North Distt.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

15.03.2024

%

1. The present petition has been filed under Section 439 CrPC read with Section 482 CrPC seeking the bail in connection with FIR No. 339/2022 under Section 302 IPC registered at Police Station Civil Lines.
2. The case of the prosecution is that on 27.07.2022 at about 03:00 hours, the local residents of Jhuggis Pahadi Aruna Nagar, Majnu ka Tila, Delhi heard the voice of firing near wall of Parasvnath La Tropicana, new construction site and one resident of the said locality got injured in firing. The injured Sunny was taken to LNJP hospital and got discharged on 03.08.2022, however, he was again re-admitted on 04.08.2022 and subsequently expired on 12.08.2022 while he was under treatment. This led to the registration of the aforesaid FIR.
3. The learned counsel for the petitioner submits that the petitioner was



working as a guard of new construction site of Parasvsnath La Tropicana and the deceased person along with some other persons were trying to steal the iron rods from the construction site and after warning them when they did not desist from their illegal act, he opened fire towards them and in this process the deceased Sunny got injured and subsequently expired. He submits that there was no intention on part of the petitioner to kill the deceased and the gun shots were fired only to deter the thieves.

4. He submits that initially the FIR was lodged under Section 307 IPC and later Section 302 IPC was added after the death of the deceased.

5. He submits that investigation is complete, the charge sheet has been filed and the charges have been framed but the prosecution evidence has not yet commenced, therefore, in the given circumstances the trial is going to be a protracted one.

6. He further submits that the petitioner has clean antecedents and he is not a flight risk. He, therefore, urges the Court to enlarge the petitioner on bail.

7. *Per contra*, the learned APP has argued on the lines of the Status Report, which has been handed over in the Court and the same is taken on record. He submits that the petitioner has made extra judicial confession to one Ombir Chaudhary and there is a recovery of the offence weapon from the petitioner. Further, the bullet which was recovered from the body of the deceased has been sent to the FSL.

8. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the record.

9. It is the case of the prosecution that the petitioner was working as a guard at the new construction site of Parasvsnath La Tropicana and the



weapon possessed by him was a licensed weapon.

10. On a query posed by the Court, the learned APP fairly states that there is no motive attributed to the present petitioner in the case. It is also not in dispute that the petitioner had fired at the deceased when he along with other four persons was trying to steal the iron rods from the said construction site. It thus, appears that there was no intention on part of the petitioner to kill the deceased. There also seems to be substance in the contention of the learned counsel for the petitioner that gun shots were fired by the petitioner only to deter and scare the thieves.

11. The petitioner is in custody since 17.12.2022 and the trial has not yet commenced and in the given facts and circumstances of the present case, the petitioner cannot be kept in custody for an indefinite period to await the outcome of the trial. There are total 19 witnesses cited by the prosecution in the charge sheet and the trial is not likely to be concluded any time soon.

12. Undisputedly, the antecedents of the petitioner are clean and he does not appear to be a flight risk.

13. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall not leave the Delhi without prior permission of the Court.
- b) Petitioner shall appear before the Court as and when the matter is taken up for hearing.



c) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.

d) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

14. The petition stands disposed of.

15. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.

16. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

17. Order *dasti* under signatures of the Court Master.

18. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

MARCH 15, 2024/dss