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

+ **BAIL APPLN. 718/2024**

SHAKIR

..... Petitioner

Through: Mr. Avdhesh Saraswat, Adv.

versus

STATE GOVT OF NCT

..... Respondent

Through: Mr. Raghuinder Verma, APP for State
with Insp. Sanjay Kumar Singh PS
Sadar Bazar

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

15.05.2024

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1. The present petition has been filed under Section 439 CrP.C. seeking regular bail in connection with FIR No. 43/2018 under Sections 302/120B/34 IPC and Sections 25/27/54/59 Arms Act registered at P.S. Sadar Bazar, Delhi.
2. The case of the prosecution as borne out from the FIR is that on 21.02.2018, information was received at PS Sadar Bazar that one person whose throat has been cut is lying dead at Shahi Idgah park. It is alleged that there was a scuffle that ensued between the parties and during the scuffle the accused persons pinned down Shoaib and gave him several blows with a knife. It is further alleged that the present petitioner actively participated in the commission of the said offence.
3. Learned counsel for the petitioner submits that the present case is



based on circumstantial evidence and the only public witness is PW-1, who is the last seen witness. He submits that the said witness has been examined and he has not supported the case of the prosecution.

4. He further submits that the incident is of 20.02.2018 whereas the petitioner came to be arrested only on 22.02.2018.

5. He submits that one of the circumstances pressed into service against him is recovery of blood stained clothes the petitioner was wearing and the blood stained knife, which were recovered from him after he was arrested on 12.02.2018. He submits it does not stand to reason that for two days the petitioner was wearing the blood stained clothes and was carrying the weapon of offence i.e. the knife which in his pocket.

6. He submits that the petitioner is in custody since 22.02.2018 and during the pandemic also he was released on bail on two occasions for a short period of one week and 15 days, which liberty was never misused by him.

7. He submits that the petitioner has remained in custody for a period of approximately 06 years.

8. He also contends that the co-accused Ravi Kohli who is similarly situated has already been enlarged on bail by this Court. He, therefore, urges the Court that the petitioner may also be granted regular bail.

9. *Per contra*, the learned APP has argued on the lines of the status report.

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

11. It is not in dispute that the sole public witness i.e. Tohib who has been examined as PW1 and was the last seen witness has not supported the case



of the prosecution. Apart from PW1, there is no other public witness cited by the prosecution.

12. Insofar as recovery of the blood stained clothes and the offence weapon is concerned, there seems to be some substance in the contention of the learned counsel that it does not stand to reason that for 02 days the petitioner was wearing the same blood stained clothes and was carrying the offence weapon in his pocket.

13. It is a matter of record that co-accused Ravi Kohli, who is similarly situated, as the present petitioner has already been granted bail by this Court *vide* order dated 06.11.2023 in BAIL APPLN 2246/2023.

14. On a query posed by the Court the learned APP, on instructions from the IO, who is present in Court states that the petitioner is involved in one other case arising out of FIR No. 178/2015 under section 324 IPC registered at PS Sadar Bazar. In response, the learned counsel for the petitioner submits that the petitioner has already been acquitted in the said case.

15. In any case, involvement in another case cannot be the sole ground to deny bail to an accused. It is also not in dispute that the petitioner is a permanent resident of Delhi, therefore, he is not a flight risk.

16. Considering the aforesaid facts in totality, 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 appear before the Court as and when the matter is taken up for hearing.



b) 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.

c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the child victim or other witnesses.

17. The petition stands disposed of.

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

19. The Trial Court is directed to expedite the trial within a period of one year.

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

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

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

VIKAS MAHAJAN, J

MAY 15, 2024

N.S. ASWAL