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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 843/2024**

HITENDER @ RINKU @ PATHAN Applicant

Through: Mr. Javed Alvi, Adv.
(through VC)

versus

STATE (NCT OF DELHI) Respondent

Through: Mr. Pradeep Gahalot, APP
for the State with ASI
Ramesh Kumar, PS
Bawana.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **07.03.2024**

CRL.M.A. 7362/2024 (*exemption from filing certified copy of the annexures*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 (CrPC) read with Section 482 of the CrPC, seeking grant of regular bail in FIR No. 14/2024 dated 07.01.2024, registered at Police Station Bawana, under Sections 25/54/59 of the Arms Act, 1959.

4. It is alleged that the complainant, while being on night patrolling duty, found two persons in suspicious circumstances. On their personal search, a revolver, that is, *desi katta*, and two cartridges were recovered.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the arms were planted by the complainant.

6. He submits that even as per the FIR the revolver, that is, *desi katta* was recovered from the co-accused, and there was



alleged recovery of two cartridges from the present applicant. He submits that the investigation, in the present case, is complete and the chargesheet has already been filed.

7. The learned Additional Public Prosecutor for the State submits that the present applicant is a habitual offender and is accused in other FIRs as well.

8. The learned counsel for the applicant submits that the applicant is on bail in all the other cases and has also been granted pre-arrest bail in certain cases.

9. The learned Trial Court dismissed the bail application of the present applicant *vide* order dated 16.02.2024 on the ground that the investigation was at initial stage and the charge sheet was not filed by then, and also on the ground that the applicant was involved in the other criminal cases.

10. The Hon'ble Supreme Court in the case of ***Prabhakar Tewari v. State of U.P., (2020) 11 SCC 648*** had observed that mere pendency of several criminal cases against the accused cannot itself be the basis for refusal of bail. The same can be a factor, however, cannot a sole basis for refusal of prayer of bail.

11. Admittedly, the chargesheet has already been filed and the investigation is complete. The maximum sentence for the offence under Section 25 of the Arms Act, 1959 is three years. The recovery of the alleged weapon had already taken place, further incarceration of the application is not required. The applicant is not required for further investigation.

12. The object of bail is not punitive but to secure the presence of accused during the trial. It has also not been alleged that incarceration of the applicant is required in order to prevent the applicant from tampering with evidence or to prevent him from extending any inducement or threat to any of the witnesses.



13. Keeping in view the aforesaid, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with one surety of the like amount to the satisfaction of learned Trial Court on the following conditions:

- a. The applicant shall under no circumstances leave the boundaries of the National Capital Region without informing the Investigating Officer;
- b. He shall appear before the learned Trial Court on every date;
- c. He shall participate and cooperate in any further investigation as and when required;
- d. He shall upon his release provide his mobile number to the concerned IO and keep it switched on at all times;
- e. He shall, upon his release, provide his address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO.

14. 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 appropriate application for cancellation of bail.

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

16. The present application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MARCH 7, 2024 / 'KDK'

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