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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 900/2024 and CRL.M.(BAIL) 424/2024**
ABDUL AHSAN @ KALLU Petitioner
Through: Mr.Md. Azam Ansari, Ms.Afshan,
Mr.Mohsin Khan, Mr.Waseem and Mr.Moin
Akhtar, Advocates

versus

STATE OF NCT OF DELHI THROUGH SHO PS - PANDAV
NAGAR Respondent
Through: Mr. Laksh Khanna, APP for State with
Insp. Pankaj Saroha

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **15.05.2024**

1. By way of present application filed under Section 439 read with Section 482 Cr.P.C., the petitioner/applicant seeks regular bail in FIR No.271/2016 registered under Sections 302/307/34 IPC at PS Pandav Nagar.
2. Learned counsel for the applicant submits that the applicant has been in custody since 31.05.2016. He submits that the injured eyewitnesses have already been examined and only public/formal witnesses remain to be examined. It is further submitted that the applicant has been released on multiple times during the COVID period on account of HPC guidelines, which concession has not been misused by him.

It is submitted that as per the prosecution case, it has been alleged that the applicant had used a knife, though the same has not been recovered from him. He further submits that a subsequent opinion has been taken from the concerned doctor, who has opined that the injury on the stomach of the deceased is caused by the knife, which has been statedly recovered from



Nashrulla Khan @ Jumman. He further submits that the allegations of using the knife against the applicant have not been substantiated.

3. Learned APP for the State has vehemently opposed the bail application. He submits that in the present case, there are four injured eyewitnesses, who in their testimonies, have not only identified the applicant but also attributed the role of causing stab injury to the deceased. It is stated that the applicant was arrested from the spot. It is further stated that the applicant is found involved in another case being FIR No.777/1997 registered under Section 307 IPC at P.S. Trilok Puri. He also submits that merely because the applicant has spent considerable time in the custody would not itself be a ground to release the applicant on bail. Learned APP for the State has also placed on reliance on the decision of Supreme Court in Abdul Sayeed v. State of M.P. reported as **(2010) 10 SCC 259** on the aspect of value of testimony of the injured witness.

4. At this stage, learned counsel for the applicant submits that the applicant has been acquitted in the aforesaid case i.e. FIR No.777/1997 and the same is also noted in the status report.

5. Having heard learned counsel for the applicant as well as learned APP for the State and without commenting on the submissions raised on behalf of the applicant as they may have a bearing on the trial, this court keeping in view the period of custody as well as the fact that the applicant has been released multiple times and has not misused the said concessions alongwith the further fact that all the material witnesses already stand examined and only public/formal witnesses remain to be examined, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the



satisfaction of the concerned Jail Superintendent/ concerned Court/Duty M.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
 - ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
6. The bail application is disposed of in the above terms alongwith the pending application.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

MAY 15, 2024/na