



2024:DHC:9562



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*** IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of Decision: 25th November, 2024**

+ BAIL APPLN. 1276/2024

PRASHANT HINJRAO

.....Petitioner

Through: Mr. Avi Kalra and Mr. Prateek Lakra,
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State.
SI Navdeep, P.S.: Special Cell, Delhi.**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI****J U D G M E N T****ANUP JAIRAM BHAMBHANI J.**

By way of the present petition filed under section 439 read with section 482 of Code of Criminal Procedure 1973, the petitioner seeks regular bail in case FIR No.66/2022 dated 01.04.2022 registered under sections 186/353/307/34 of the Indian Penal Code, 1860 and sections 25/27 of the Arms Act, 1959 at P.S.: Special Cell, Delhi. Consequent upon completion of investigation, charge-sheet dated 27.05.2022 has been filed in the matter.

2. Notice on this petition was issued on 22.04.2024.
3. Status report dated 16.09.2024 and SCRB report dated 18.09.2024 have been filed.
4. Nominal Roll dated 09.05.2024 has also been received from the concerned Jail Superintendent.

Signature Not Verified

Signed By: ANJALI KAUSHIK

Signing Date: 22.12.2024
13:04:10



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5. Mr. Avi Kalra, learned counsel appearing for the petitioner submits, that the petitioner has already undergone more than 02 years in judicial custody in the present case; and though the State has cited 20 prosecution witnesses, charges are yet to be framed in the matter.
6. Mr. Kalra argues that the case against the petitioner is concocted, false and frivolous. Counsel submits that the genesis of the matter is the version of the Special Cell of the Delhi Police that they were tracking movements of members of the Lawrence Bishnoi, Kala Rana and Kala Jathedi gangs, who are all 'wanted' criminals in various heinous offences. It is argued that the Special Cell does not give any specifics as to why they were tracking the movements of the petitioner; and moreover the allegation that the petitioner, alongwith other persons, was apprehended in a vehicle near Buddha Jayanti Park on Simon Bolivar Marg is completely bogus; and in fact the petitioner was picked-up from Hapur in Uttar Pradesh.
7. Mr. Kalra also submits, that though the prosecution says that a co-accused Vivek Puri and the petitioner whipped-out pistols and fired at the police team before they were over-powered; and that one of the bullets hit S.I. Sumit, who was part of the police team and was saved because he was wearing a bullet proof vest, that allegation has nothing to do with the petitioner since the gun-shot was fired by co-accused Vivek Puri.
8. Learned counsel argues, that there is no evidence nor even an eye-witness to the alleged incident, except officers of the police team; and the charges against the petitioner are false.



9. On the other hand, relying upon the status report filed in the matter, Mr. Tarang Srivastava, learned APP appearing for the State submits that the fact that the petitioner was apprehended on 31.03.2022 near Buddha Jayanti Park on Simon Bolivar Marg and that a shoot-out happened is evidenced by the forensic examination of the bullet proof vest which was worn by S.I. Sumit, who was fired upon by the petitioner's co-accused Vivek Puri.
10. Learned APP submits that the police had received information from a secret informer; and based on such information they were tracking the movements of the gang members; and when accosted and asked to surrender, two of them, one being the petitioner, pulled-out their pistols and fired at the police team. Learned APP submits that 03 semi-automatic pistols and 13 live cartridges were recovered from the 03 persons apprehended; and specifically, 01 semi-automatic pistol with 04 live cartridges was recovered from the petitioner; and the recovered arms and ammunition as well as the car in which they were travelling was seized by the police.
11. Learned APP submits that charge-sheet has been filed in the matter; and though one of the co-accused persons Ashwini was admitted to bail by the learned Sessions Court, that was for the reason that the said person had not fired upon the police party. But the petitioner's bail applications have been dismissed by the learned Sessions Court on no less than 04 occasions, since there is compelling evidence that he had fired at the police party.
12. It is also submitted, that as per the FSL report, the individual characteristics of the firing pin-marks and the breech face-marks on



the empty cartridges recovered from the spot have been found to be identical with the bullets test-fired from the pistol recovered from the petitioner. It is submitted that the gun-shot residue recovered from the petitioner's left hand was analyzed and the result shows that the gun was fired by the petitioner.

13. Learned APP submits that based on the FSL report, a supplementary charge-sheet has also been filed *inter-alia* against the petitioner and the matter is pending at the stage of framing of charges.
14. Most importantly, learned APP draws attention to the SCRB record of the petitioner, as well as his other involvements as noted in the nominal roll, to show that the petitioner has at least 05 other criminal implications for same or similar offences; he has also been convicted in a case registered at P.S.: Baldev Nagar, Ambala, Haryana; that his jail conduct has also been found to be 'un-satisfactory'; and that he has been awarded multiple punishment tickets for infraction of prison rules.
15. Mr. Kalra on the other hand submits, that the court must focus only on the case at hand; and the status of other cases is of no relevance for deciding whether the petitioner is entitled to bail in the present case. He submits that as per his instructions, the petitioner is on bail in all the other matters, and has also been granted suspension of sentence in the matter in which he was convicted.
16. It is also noticed that the bail petition filed by co-accused Vivek Puri has been dismissed by a Co-ordinate Bench of this court *vide* order dated 30.10.2023 made in BAIL APPLN. No.194/2023 titled ***Vivek Puri vs. State.***



17. In the above backdrop and upon an overall conspectus of the facts and circumstances of the case, what prevails with the court *at this stage* are the following considerations:
- 17.1. That the offences alleged against the petitioner in the subject FIR are grave and serious, including that he fired on the police team when he was confronted while being tracked by the Special Cell of the Delhi Police;
- 17.2. That according to the prosecution, there is forensic evidence to support that the petitioner was one of the persons who had fired a gun-shot at the police team, which has found support in the forensic evidence that has come on record, including evidence that the residue found on the petitioner's left hand shows that he had fired the gun recovered from him; and
- 17.3. That the petitioner has been arrested by the Special Cell believing that he is a part of one of the most dreaded criminal gangs in the country, which gang functions through various operatives; and the prosecution believes that the petitioner had come to Delhi alongwith other gang members to carry-out some major action.
18. Insofar as the consideration of petitioner's antecedents is concerned, this court reminds itself of the observations of the Supreme Court in the following landmark decisions:

Ash Mohammad vs. Shiv Raj Singh alias Lalla Babu & Anr.¹

“30. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an

¹ (2012) 9 SCC 446



*impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. **There should have been proper analysis of the criminal antecedents.** Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. **We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty.** Regard being had to the said parameter we are inclined to think that the social concern in the case at hand deserves to be given priority over lifting the restriction on liberty of the accused.”*

(emphasis supplied)

Gudikanti Narasimhulu and Ors. vs. Public Prosecutor, High Court of Andhra Pradesh²

*“9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. **It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record — particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant is therefore not an exercise in irrelevance.**”*

(emphasis supplied)

² (1978) 1 SCC 240



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19. Though it is true that a bail petition should be considered based on the matter at hand; however the antecedents of a person and his past criminal involvements are *not* an irrelevant consideration; and where the court finds that the petitioner has multiple criminal involvements in heinous offences including murder, unlawful assembly and *violence inside prison* as well as lethal assault on police officers, and that he is also a convict in a similar case; and that he has been active across States, it would be a fallacy for the court to ignore such other involvements and take a blinkered, pedantic or restrictive view of a matter, and to thereby compromise law enforcement.
20. Keeping the aforesaid considerations in mind, this court is *not* persuaded to grant regular bail to the petitioner, *at least at this stage*.
21. The petition is accordingly dismissed.
22. Pending applications, if any, also stand disposed-of.
23. Needless to state, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 25, 2024/ak