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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1331/2024**
MOHD SAMEERPetitioner

Through: Mr. M. Rais Farooqui, Ms. Iffat
Fatima and Mr. Ali Aasim Quddusi,
Advs.

versus

STATE (GOVT. OF NCT)Respondent
Through: Ms. Manjeet Arya, APP with SI Anil
Kumar, PS: Jamia Nagar and SI
Manish Tyagi, PS: Govind Puri.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

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12.08.2024

1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 0443/2023, under Sections 307/34 IPC and 25/27 Arms Act, registered at PS: Jamia Nagar.
2. In brief, as per the case of prosecution, in the intervening night of 05/06.10.2023, while the petitioner was present along with his friends at car parking near his house, 4-5 boys on scooty and motorcycle reached the spot. One of them (Afsan) shot at the complainant, resulting injuries on his thigh. Another shot was fired by accused Intekhab @ Gunga at the friend of complainant, but he somehow managed to escape. The accused thereafter fled from the spot.
3. Learned counsel for the petitioner submits that no recovery has been effected from the petitioner and the alleged gunshot was fired by co-accused Afsan. He further submits TIP proceedings were not conducted during



investigation and case of petitioner is at parity with co-accused Shakir who has been granted bail by Learned Trial Court. It is also urged that applicant is aged about 20 years and has clean past antecedents.

4. On the other hand, application is opposed by learned APP for the State. She submits that petitioner was carrying the weapon, which was provided to him by co-accused Shakir. Further, the said firearm was returned to Shakir after the incident and the same was recovered from Shakir. She contends that the case of petitioner is not at parity with co-accused Shakir since Shakir was not found at the spot, but had only provided the weapon, while the petitioner was driving the scooty owned by another JCL. IO also points out that TIP was not conducted since petitioner was arrested on the statement of eye-witness.

5. I have given considered thought to the contentions raised.

Admittedly, the assault was made after making preparation by the accused, armed with country-made weapons. Petitioner had due knowledge of the offences, since he was also armed with weapon and driving the scooty. Considering the nature of allegations, possibility of influencing the witnesses cannot be ruled out in case petitioner is admitted to bail at this stage. In the facts and circumstances of the case and in view of evidence on record, no grounds for bail are made out.

Application is accordingly dismissed. Pending applications, if any, also stand disposed of.

Nothing stated herein shall tantamount to expression of an opinion on the merits on the case.

ANOOP KUMAR MENDIRATTA, J

AUGUST 12, 2024/R