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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1808/2023

DANISH

..... Applicant

Through: Mr.Surinder Anand,
Ms.Sugandha Anand,
Mr.M.K.Khan, Mr.Aman
Mirza, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP with SI
Nitin, PS Farsh Bazar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

09.01.2024

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1. This application has been filed seeking regular bail in FIR no.830/2015 registered with PS: Farsh Bazar, District East, Delhi under Sections 302/34 IPC & Sections 25/27 of Arms Act, 1959.
2. The learned counsel for the applicant submits that as per the case of the prosecution, the alleged incident had taken place on 01.10.2015, however, FIR regarding the same was registered only on the next day, in pursuance of which the petitioner was arrested on 16.04.2016. He submits that there are a total of 40 witnesses to be examined by the prosecution, out of which only 26 witnesses have been examined so far. He submits that the applicant cannot be made to undergo imprisonment for such a prolonged period only on the basis of allegations made by the prosecution. He places reliance on the judgment of the High



Court of Bombay in *Akash Satish Chandalia v. State of Maharashtra*, Neutral Citation: 2023:BHC-AS:28583, to submit that in similar circumstances, the High Court had released the accused therein on bail, observing that there is no reason as to why the benefit of long incarceration should not be extended to the accused therein. It was further held that pending the trial, a person cannot be kept in custody for an indefinite period of time, as it clearly violates the fundamental rights as enshrined in the Constitution.

3. He further submits that the applicant had been released on bail pursuant to the orders passed by the High Powered Committee during the Covid period, and he did not misuse the said indulgence granted and duly surrendered before the concerned authorities.
4. On the other hand, the learned APP points out that even in the order dated 09.05.2023 passed by the learned Additional Sessions Judge, rejecting the release of the applicant on bail, it has been observed that PW-8, who is an eyewitness, has identified the applicant as the person who held on to the deceased while the co-accused shot him. He submits that the Trial Court itself has observed that the trial is likely to conclude soon.
5. He further submits that as per the nominal roll, the petitioner has undergone imprisonment of only about 4 years and 11 months as of 18.10.2023. He submits that the period of incarceration alone, cannot be a ground to release the applicant on bail, the Court must also consider the surrounding circumstances including the



evidence that has already come on record before the Trial Court. He further submits that earlier, the petitioner had been declared a Proclaimed Offender and therefore, there is every likelihood that if the applicant is released on bail, he would flee from the prosecution, as the trial is at the fag end.

6. I have considered the submissions made.
7. As recorded in the order dated 09.05.2023 passed by the learned Additional Sessions Judge, one of the witnesses, that is PW-8, has identified the applicant as the person who held on to the deceased while the co-accused shot him. It has further been observed in the said order that 26 witnesses have already been examined by the prosecution and the trial is likely to be concluded soon. The applicant was earlier declared as a Proclaimed Offender and was arrested only later.
8. Though the applicant has been in custody for a period of around five years, keeping in view the above facts, I do not deem it appropriate to release the applicant on bail at this stage of the trial. However, the learned Trial Court is requested to expedite the trial and make an endeavour to conclude the same within a period of six months from today.
9. The Bail Application is accordingly dismissed.

NAVIN CHAWLA, J

JANUARY 9, 2024
RN/am

[Click here to check corrigendum, if any](#)