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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1378/2024

BABLOO SINGH

.....Petitioner

Through: Mr. S.N. Shukla and Mr. Shivendra
Singh, Advocate.

versus

STATE OF DELHI (NCT OF DELHI) & ANR.Respondents

Through: Ms. Shubhi Gupta, APP for the State
with Mr. Heera Lal, P.S. Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

06.11.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks regular bail in case FIR No.839/2018 dated 29.12.2018 registered under section 302 of the Indian Penal Code, 1860 ('IPC') and sections 27/54/59 of the Arms Act, 1959 ('Arms Act') at P.S.: Nihal Vihar, Delhi. Consequent upon completion of investigation, the offence under section 25 of the Arms Act was added *vide* charge-sheet dated 28.09.2019.

2. Notice on this petition was issued on 24.04.2024; pursuant to which Status Report dated 29.07.2024 has been filed.
3. Nominal Roll dated 17.05.2024 has also been received from the concerned Jail Superintendent.
4. Mr. Shivendra Singh, learned counsel appearing for the petitioner submits, that in connection with an incident that occurred on 28.12.2018, the petitioner came to be arrested on 01.07.2019 *i.e.*, after more than 06 months.



5. Counsel submits, that in fact the petitioner was not arrested in the present case to begin with; but was first arrested by the Haryana Police in case FIR No.484/2019 dated 26.06.2019 registered under sections 25/54/59 of the Arms Act at P.S.: Bhiwani City, Haryana. Mr. Singh points-out that in the said other case, the petitioner has since been acquitted *vide* judgment dated 07.06.2023 passed by the Judicial Magistrate First Class, Bhiwani, Haryana.
6. Furthermore, counsel submits that in an earlier round of litigation, *vide* order dated 01.11.2023 made in BAIL APPLN No.342/2023, a Co-ordinate Bench of this court had granted to the petitioner leave and liberty to file a fresh bail application before the learned trial court after the deposition of public witnesses was complete, with a request to the learned trial court that public witnesses be examined within 04 months; and in view of that direction issued to the learned trial court, the petitioner withdrew his earlier bail petition.
7. It is further pointed-out that *vide* an earlier order dated 25.04.2023 made in BAIL APPLN. No.342/2023, a Co-ordinate Bench of this court had also issued a direction to the S.H.O., P.S.: Nihal Vihar to take necessary steps in terms of the directions issued by the learned trial court *vide* order dated 18.12.2022, to obtain the FSL report in relation to the forensic evidence sent there for examination.
8. In the circumstances, it is argued that clearly the Co-ordinate Bench had appreciated the delay in obtaining the FSL report, leading to the delay in prosecution of the matter before the learned trial court.
9. Mr. Singh argues, that despite the aforesaid directions, only 22 out of the 32 prosecution witnesses cited in the charge-sheet dated



28.09.2019 have so far been examined; and it is therefore unlikely that the trial would conclude any time soon.

10. Mr. Singh further submits, that all material witnesses who are supposed to have given statements against the petitioner under section 161 of the Cr.P.C. have turned hostile before the learned trial court. He points-out, that most importantly, PW-15 Rahul Tandon, who is supposed to have identified the petitioner in the CCTV-footage collected from the godown of the said person, where the offence is alleged to have been committed, has also turned hostile; and has completely failed to identify the petitioner as the person who fired the shot leading to the death of deceased Paras Bhatia @ Sanam.
11. In the circumstances, it is argued that no credible evidence has come through in the course of the trial on the basis of which the petitioner could at all be convicted.
12. On the other hand, it is pointed-out that the petitioner has suffered judicial custody for almost 4½ years, as seen from Nominal Roll dated 17.05.2024 received from the Jail Superintendent. Mr. Singh also states that the petitioner's only other criminal implication cited in the nominal roll, namely in case FIR No. 901/2014 registered under sections 279/338 of the IPC at P.S.: Tilak Marg, New Delhi, has also been compounded.
13. It is submitted that the nominal roll also records that the petitioner has been released earlier on interim bail on 02 occasions, namely on 10.08.2020 and 14.07.202 and there is no allegation that he misused his liberty at that time; and that his overall jail conduct has been recorded as 'satisfactory'.



14. In the circumstances, Mr. Singh prays that the petitioner be admitted to regular bail.
15. Ms. Shubhi Gupta, learned APP appearing for the State opposes the grant of bail, submitting that the petitioner is seen in the CCTV-footage collected from the godown as having fired the shots, which killed the deceased.
16. Upon being queried however, learned APP confirms that the public witnesses who had given statements against the petitioner under section 161 of the Cr.P.C., including PW-15 and PW-21, have turned hostile during the course of trial.
17. Learned APP also confirms that the FSL (Ballistics Division) Report dated 30.05.2023 now received does not show a match of the weapon recovered with the bullets recovered from the spot.
18. Pursuant to intimation sent to her *vide* last order dated 30.09.2024, the court has also heard the mother of the deceased. She states that the petitioner had visited the home of the deceased, her son, on the evening of 28.12.2018 and had taken him away thereafter; and till late into the night, their son was in telephonic conversation with his father. However, she states that thereafter the son's cell-phone was found switched-off; and the next morning they were informed that their son had died.
19. For whatever it is worth, it may be recorded, that the mother has not been arrayed as a prosecution witness in the charge-sheet.
20. In the facts and circumstances of the case, and without wishing to comment on the evidence that has come on record so far, and especially considering the fact that despite order dated 01.11.2023



made by a Co-ordinate Bench of this court, only 22 out of 32 prosecution witnesses have so far been examined; and, in the meantime, the petitioner has suffered judicial custody for about 4½ years as an under-trial, this court is persuaded to admit the petitioner – **Babloo Singh s/o Hari Singh** – to *regular bail* pending trial, subject to the following conditions :

- 20.1. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Rs. Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 20.2. The petitioner shall furnish to the Investigating Officer/S.H.O. P.S.: Nihal Vihar, Delhi a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- 20.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 20.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 20.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the Investigating Officer in writing.



21. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of bail.
22. Nothing in this order shall be construed as an expression of opinion on the merits of the matter.
23. The petition is accordingly disposed-of in the above terms.
24. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 6, 2024

V.Rawat