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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1545/2024

MANISH

.....Petitioner

Through: Mr. Kanhaiya Singhal, Mr.Unwal,
Ms.Vani, Mr.Prasanna, Mr.Ajay, Mr.Udit,
Ms.Deepali, Mr.Kausar and Mr.Aditya, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP for State with
SI Anugraha

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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10.07.2024

1. By way of present application, the petitioner/applicant seeks regular bail in FIR No.414/2018 registered under Section 302 IPC and Section 27 Arms Act at P.S. Welcome.
2. Learned counsel for the applicant has pointed out the sorry state of affairs whereby the trial has proceeded despite the fact that no FSL or ballistic report has been placed on record till date. He submits that the incident took place on 18.10.2018 and the chargesheet came to be filed on 17.01.2019. He submits that as per the prosecution case, it is alleged that the applicant had fired the gunshot and the gun which was allegedly seized at the instance of the applicant as well as other material evidence were sent to the FSL in December, 2018. He further submits that till date only 15 out of 31 prosecution witnesses have been examined. At the same time, neither the FSL nor the ballistic report has seen the light of the day. He thus submits



that applicant's right to have a fair trial has been prejudicially affected.

3. On merits, it is stated that while the incident is stated to have occurred at 12.45 A.M. on 18.10.2018, the presence of the eyewitness *Shiv Kumar* at the spot is highly disputed. In this regard, he has referred to the testimony of *HC Mahipal* (PW-13), who has stated that first information about the incident was received vide DD No. 6B at 12:58 A.M., whereafter he reached the spot and remained there till 5:47 A.M. when he took *tehrir*. In his testimony *HC Mahipal* has deposed that till the time he was there, no eyewitness appeared or approached the police. On the other hand, the eyewitness *Shiv Kumar* stated that though initially he had left the spot after witnessing the incident but thereafter he went to the house of the deceased and informed his father *Rajinder Singh* about the incident. It is informed that *Rajinder Singh* was living in the same house.

4. Learned APP for the State, on the other hand, has opposed the bail application. He submits that two other witnesses namely *Rekha* (PW-5) and *Janeshwar @ Titu* (PW-6), the neighbours have deposed about hearing the gunshots. He further submits that the gun used in the incident has also been recovered at the instance of the applicant. He, on instructions, confirms that till date no FSL or ballistic report has been placed on record. He further submits that the applicant is also found to be involved in two other cases being FIR No. 398/2008 registered under Section 307 IPC & Sections 25/27 Arms Act at PS Nand Nagri and FIR No.281/2016 registered under Sections 308/506 IPC at PS Jyoti Nagar.

5. At this stage, learned counsel for the applicant submits that while the applicant is not involved in FIR No.398/2008, in FIR No.281/2016, the applicant was convicted and has undergone the sentence.



6. Having heard learned counsel for the applicant as well as learned APP for the State and having also gone through the material placed on record and without expressing any opinion on the merit of the contention relating to the presence of the eyewitness as well as looking into the fact that the trial has proceeded in absence of any FSL/ballistic report being placed on record, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- 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.

7. The bail application is disposed of in the above terms.

8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.



9. Copy of the order be uploaded on the website forthwith.
10. 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

JULY 10, 2024
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