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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1686/2024**

SAHIL @ NIKHIL

.....Applicant

Through: Mr. Vishal Arun Mishra &
Ms. Rupali Panwar,
Advocates.

versus

STATE OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Ajay Vikram Singh,
APP for the State.
SI Kailash & ASI
Mahender (P.S. Sagarpur).
Mr. Ankur Yadav & Ms.
Harshita Verma,
Advocates for
Complainant alongwith
Complainant-in-Person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

16.08.2024

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1. The present FIR was registered for offence under Section 307 of the Indian Penal Code ('IPC'). It is the case of the prosecution that the present applicant has been involved in various crimes and has many past antecedents. The applicant and the complainant are relatives and there have been incidents of family quarrels in the past.

2. It is not disputed that the applicant has been involved in multiple cases. The learned Additional Public Prosecutor produced various FIRs in which the accused has been kept under custody, the same has been reproduced below:

S. No.	CR No	District	PS	FIR No. / Year	Under Section	Status of Accused
1.	164055	SOUTH-	PALAM	243/2021	25/27 ARMS ACT	-



		WEST DISTT.	VILLAGE			
2.	164055	SOUTH- WEST DISTT.	SAGAR PUR	211/2021	307 & 25/54/59 ARMS ACT	-
3.	164055	DWARKA DISTT.	DWARKA SOUTH	171/2016	392/511/34 IPC	POLICE CUSTODY
4.	164055	RAILWAYS	e Police Station M.V. Theft	029898/2018	379 IPC	JUDICIAL CUSTODY
5.	164055	SOUTH- WEST DISTT.	PALAM VILLAGE	51/2019	302/506/120-B/34 IPC & 25/27 ARMS ACT	JUDICIAL CUSTODY
6.	164055	SOUTH- WEST DISTT.	SAGAR PUR	150/2016	392/34 IPC	JUDICIAL CUSTODY
7.	164055	SOUTH- WEST DISTT.	SAGAR PUR	151/2016	379 IPC	JUDICIAL CUSTODY
8.	164055	OUTER DISTT.	MUNDKA	32/2019	394/397/34 IPC & 25/27/54/59 ARMS ACT	JUDICIAL CUSTODY
9.	164055	OUTER DISTT.	SULTAN PURI	94/2019	25 ARMS ACT	JUDICIAL CUSTODY
10	164055	ROHINI DISTT.	NORTH ROHINI	131/2021	387/34 IPC	JUDICIAL CUSTODY
11	164055	NORTH- WEST DISTT.	SHALIMAR BAGH	446/2015	392/394/411/120-B IPC	ACQUITTED

3. The first FIR against the applicant was registered way back in the year 2015.

4. It is apparent that the applicant has been involved in serious offences including robbery and attempt to murder along with offences under the Arms Act.

5. In the present case, the prosecution has alleged that on the date of the incident, there was an ongoing quarrel between the accused and the complainant. The accused allegedly fired a bullet from inside the house which hit the lower leg of the complainant. It is further alleged that the accused came out of the house and fired more bullets while pointing the gun at the head of the complainant.

6. The learned counsel for the applicant submits that it is evident from the CCTV footage available that the complainant was trying to break the door of the accused with an axe and also pulled the clothes of the applicant's mother with the intention of outraging her modesty.



7. He submits that due to civil disputes with the complainant, the applicant herein was falsely implicated in the present case.
8. He submits that since the material witnesses including the wife of the complainant have been examined, now there is no apprehension that if the applicant is released he may influence the witnesses.
9. *Per contra*, the learned APP for the state submits that the applicant is a repeat offender and has allegedly committed offences even when the liberty of interim bail was granted to him.
10. He submits that since some witnesses have yet to be examined, the possibility of intimidating witnesses cannot be ruled out.
11. The learned Trial Court while dismissing the applicant's first bail application vide order dated 15.01.2024 made specific observations regarding the incident, the same are reproduced below:

“Heard, ld. Addl. PP for the State and ld. Defence counsel and perused the report of the IO. The allegations against the applicant are that he used fire arm with unlicensed pistol on the complainant Vijay Kumar and caused injury on the right calf of Vijay Kumar with the fire arm. The entire incident has been captured in the CCTV camera which was installed at the place of incident. In the CCTV footage, the applicant is seen firing in the air and then firing towards the complainant. Resultantly the fire arm hit the complainant on his leg causing grievous injury. Admittedly, the applicant and complainant are relatives and living in adjacent homes. As per report of the IO, the applicant is involved in various other matters and one case being under 302 IPC. Even as per the nominal roll of the accused called from the concerned Jail Superintendent, the applicant has been granted punishment tickets on various occasions and around 8 cases are pending against him. His



overall conduct has been found to be unsatisfactory.”

12. The applicant filed another bail application, which was dismissed by order dated 27.04.2024 by the learned Trial Court, noting that the applicant has failed to show any change in circumstances after the dismissal of the bail application on 15.01.2024. The same led to filing of the present bail application.

13. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. (*Refer: Chaman Lal v. State of U.P. and Another : (2004) 7 SCC 525; Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Pappu Yadav and Another : (2004) 7 SCC 528 ; Masroor v. State of Uttar Pradesh and Another : (2009) 14 SCC 286*).

14. Further, it is trite law that the criminal antecedents are not always determinative of the question of whether bail is to be granted yet the relevance of criminal antecedents cannot be totally ignored. (*Refer: State of Maharashtra v. Sitaram Popat Vetal & oth : (2004) 7 SCC 521*)

15. Serious allegations have been made against the applicant in the present case. He was found to have fired from an unlicensed pistol on the complainant and caused injury on the complainant's right calf. The incident was captured in the CCTV



camera, in which the applicant was seen firing in the air and then towards the complainant. The alleged offence and in the manner in which it is committed, is grave in nature. The use of firearm and in the manner as captured in the CCTV, *prima facie*, points towards the commission of offence under Section 307 of the IPC.

16. Section 307 of the IPC lays out the punishment for attempt to murder, holding the same to be punishable with imprisonment which may extend to 10 years and also a fine, however, if hurt is caused to any person by such an act then the offender is liable to be punished with imprisonment for life or the same punishment as mentioned above. The complainant is also stated to be the applicant's neighbour and in such circumstances, threatening the complainant and repeating the offence since the applicant admittedly has an acrimony with the complainant, cannot be ruled out.

17. It is also relevant to note that in the present FIR also, the applicant was released on interim bail and then committed a further crime which led to registration of another FIR being FIR No.243/2021 under Sections 25 and 27 of the Arms Act, 1959.

18. Undoubtedly, the petitioner is in custody for more than three years in the present case and the trial is not likely to conclude in the near future.

19. Long period of incarceration cannot be the sole ground on which bail can be granted, especially considering the applicant's past antecedents and the possibility that the applicant might intimidate witnesses. The conduct of the applicant, as noted above, also disentitles him of any relief. It is apparent that the moment the applicant comes out on bail, he further commits an offence. Such persons, in the opinion of this Court, are a threat to the society.

20. While in custody also, the nominal roll indicates that a



number of punishments have been awarded to the applicant.

21. In such circumstances it would not be apposite to grant bail at this stage as the applicant is a threat to society and has *prima facie* repeatedly been involved in criminal activities.

22. In view of the above, the present application is dismissed.

AMIT MAHAJAN, J

AUGUST 16, 2024

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