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

+ **BAIL APPLN. 1732/2024**

FAIZAN @FAIZI

.....Petitioner

Through: Mr. M.L. Yadav, Mr. Harishchand,
Mr. Yakub Raza and Mr. Anant
Chittoria, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawa, APP for the State
with Insp. Karamveer PS Dayalpur

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

14.08.2024

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1. The present Application has been filed under Section 439 Cr.P.C. 1973 seeking Regular Bail in FIR No. 712/2022 at PS DayalPur under Sections 302/365/201/34 IPC and Section 25/27 Arms Act.
2. It is submitted that the petitioner is confined in Judicial Custody since 16.01.2023.
3. The case of the Prosecution is at on 19.03.2022 a missing report of Ms. Sushila Wati W/o Vinod Kumar, aged 40 years was registered on the complaint of her younger brother Mr. Chetan Kumar at PS Dayalpur.
4. Mr Chetan Kumar received the call from the missing elder Sister on 03.03.2022 and on 04.03.2022, however, subsequently tried to contact her, but this time her phone was switched off. On the very next date he visited the residence of her sister but on no response, he visited the Police Station



and got the missing report registered.

5. The complainant moved the Application under Section 156(3) Cr.P.C. before the learned MM. Consequently, the investigations were conducted and the FIR was registered. The Petitioner along with Mohd. Shakbir Ali was arrested on 16.01.2023 on the basis of secret information. On 17.01.2023, the news of the death of the elder sister was conveyed to Mr. Chetan Kumar.

6. After the investigations, the Charge Sheet has been filed and the charges have been framed. Out of 31 witnesses, 28 witnesses have been examined. It is stated that all material witnesses stand examined. A supplementary Charge Sheet has been filed wherein 11 more witnesses have been cited which are yet to be examined.

7. The Bail is sought on the ground that he is Judicial Custody since 16.01.2023 i.e. for nearly one year and 8 months. The case of the prosecution is based on circumstantial evidence and the chain of circumstances against the present petitioner are not complete and there is no legal evidence against him.

8. The recovery of two live bullets as shown by the Investigating Agency was allegedly effected after one year of the incident and is highly improbable and planted.

9. The Baleno car of co-accused Shakir Ali was inspected by the FSL Crime team, during which, 2 blood samples were taken from the rear seat of the car which were deposited in the FSL Dayalpur dated 24/04/2023. The FSL Report has been received on 27.09.2023 resulting in generation of the "Female DNA Profile". It is submitted that it is highly improbable that any blood could have been found in the back seat, after one year of the incident.



It is clear that the story of the prosecution of finding the blood on the rear seat of the car of the co-accused, is planted.

10. It is further submitted that the Call Detail Record is the only circumstantial evidence on which the prosecution is relying.

11. The petitioner is a young law abiding citizen having clean record and satisfactory conduct. He is neither capable to threaten the witnesses or tamper with the evidence. Hence, the Bail is sought.

12. The Prosecution has filed the Status Report, wherein the Bail is opposed on the ground that there is enough incriminating evidence to link the petitioner to the commission of the offence.

13. The pistol recovered from the co-accused Mohd. Shakir Ali has been sent to FSL for connecting the use of the weapon with the bullet that was recovered from the body of the deceased. The Trial is almost at the end and is likely to be concluded soon.

14. Learned APP for the State submits that it is not a coincidence that on the night of the incident, the mobile phones of the petitioners and the other co-accused were found switched off. This is in itself a great incriminating fact indicating the involvement of the petitioner in the commission of the offence.

15. Submissions heard.

16. The accused is in Judicial Custody since 16.01.2023 i.e. for about 1 year and 8 months. It is not in dispute that all the material witnesses have been examined in the main Charge Sheet and only the formal witnesses cited in the supplementary Charge Sheet, remain to be examined.

17. It is further not in dispute that the incriminating evidence against the present petitioner is the alleged recovery of the pistol from the co accused



Mohd. Shakir Ali.

18. Considering that all the main witnesses have been examined and the accused is in custody for about 1 year and 8 months and also the incriminating evidence against him, the petitioner is admitted to bail on the following conditions:-

- a) The petitioner/accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing.
- c) The petitioner/accused shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
- e) The petitioner/accused shall not leave the country, without permission of this Court.
- f) The petitioner/accused shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of affidavit.

NEENA BANSAL KRISHNA, J

AUGUST 14, 2024/PT