



2024:DHC:2652

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

% Judgment delivered on: 03.04.2024

+ **BAIL APPLN. 2467/2023**

DHRUV @ LADDU

..... Applicant

versus

STATE(GOVT OF NCT OF DELHI)

..... Respondent

+ **BAIL APPLN. 2330/2023**

SHIVAM @ JUNGLI

..... Applicant

versus

STATE(GOVT OF NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Applicants : Mr. Naresh Kumar, Adv. for the applicant
Dhruv @ Laddu
Mr. Gaurav Goel, Mr. Vikas Gautam and
Mr. Ravi Kumar, Adv. for the applicant
Shivam @ Jungli

For the Respondent : Mr. Pradeep Gahalot, APP for the State with
SI Ram Kishan, PS Neb Sarai..

CORAM:**HON'BLE MR JUSTICE AMIT MAHAJAN****JUDGMENT**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') for grant of regular bail in FIR No. 636/2022 dated 25.10.2022, for offences under Sections 307/34 of the

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BAIL APPLN. 2467/2023

Page 1 of 8



2024:DHC:2652



Indian Penal Code, 1860 ('**IPC**'), registered at Police Station Neb Sarai. Chargesheet has been filed against the applicant Dhruv *alias* Laddu for offences under Sections 307/148/149/34 of the IPC and Section 25 of the Arms Act, 1959 and against the applicant Shivam *alias* Jungli for offences under Sections 307/148/149/34 of the IPC.

2. The present FIR was registered on the statement of the complainant, namely, Ram Kishan. The brief facts of the present case are as follows:

2.1 On 24.10.2022, a PCR call was received regarding a boy having been beaten by 5-10 persons at Mata Chowk, Devli Village. On receiving the information, Sub Inspector Ram Kishan (the complainant) along with Head Constable Rajeev reached the spot of incident and found out that a boy was beaten by some people and received serious injuries due to which he was taken to hospital, that is, AIIMS Trauma Centre, by the PCR Van.

2.2 It is the prosecution's case that a friend of the victim, namely, Harsh *alias* Manne, along with 2 – 3 friends was enjoying Diwali in front of his house when he saw the applicants and other accused persons coming towards them with rods, *lathi*, etc. It is stated that Harsh *alias* Manne ran inside his house and later found that the victim had been assaulted by the accused persons. It is stated that Harsh *alias* Manne and Devraj *alias* Annu (brother of Harsh *alias* Manne)



2024:DHC:2652



identified the applicants and the other assailants in the CCTV footage.

2.3 They informed that the incident took place as a result of previous enmity between them and the applicant.

2.4 As per the status report, on analysis of the CCTV footage, it was found that one child in conflict with law ('CCL') involved in the commission of the crime, that is, CCL 'L' was chasing the victim and stabbed him on his back. Another accused person, that is, CCL 'S' and the applicants were seen beating the victim with rods/ *danda*.

2.5 The applicant Dhruv was arrested on 26.10.2022. During interrogation, the applicant disclosed that he had sustained injuries one year ago in a scuffle with Devraj *alias* Annu and Harsh *alias* Manne. He disclosed that on 24.10.2022, he along with his friends, including the applicant Shivam, planned to beat Devraj *alias* Annu and Harsh *alias* Manne to pacify his earlier grievances. He stated that when they reached the residence of the said persons, they found that Harsh *alias* Manne along with his friends was bursting crackers in front of his house. On seeing the accused persons, he ran inside his house and his friends also ran away from the spot. He stated that the accused persons chased the friends of Harsh *alias* Manne and caught the victim. Subsequently, the victim was stabbed in the back and also beaten with rods and *danda* by the accused persons.

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21:41:17

BAIL APPLN. 2467/2023

Page 3 of 8



2024:DHC:2652



2.6 On 30.11.2022, the applicant Shivam surrendered before the learned Metropolitan Magistrate, Saket Courts, whereafter he was formally arrested by the police and sent to judicial custody.

2.7 The nature of the injuries sustained by the victim was opined to be grievous in nature.

3. The learned counsel for the applicants submitted that the applicants are law abiding citizen and have clean antecedents.

4. He submitted that the chargesheet has been filed and the investigation in the present case is complete in regard to the applicants.

5. He submitted that the applicant Dhruv has been granted interim bail on three occasions on account of his examinations and his grandfather's death. He submits that the applicant Dhruv did not violate any term or condition of the bail and duly surrendered well in time before the concerned Jail Authorities.

6. He submitted that the grievous injuries suffered by the victim were not inflicted by the applicant. He submitted that even as per the statement of the complainant, CCL 'L' had inflicted the injury with knife, and the applicants only had a rod / *danda* in their hands.

7. He submitted that all the accused persons were of tender age at the time of the incident. He submitted that the victim and the accused persons live in the same locality and are known to each other.

8. He submitted that four of the co-accused persons were produced before the Juvenile Justice Board, Delhi Gate and later released.

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21:41:17

BAIL APPLN. 2467/2023

Page 4 of 8



2024:DHC:2652



9. He submitted that the prosecution has listed 20 witnesses for examination and the trial will thus take a long time to conclude. He submits no useful purpose would be served by subjecting the applicants to further incarceration.

10. The learned Additional Public Prosecutor for the State opposed the grant of any relief to the applicant. He submitted that specific allegations have been made against the applicants in the present case.

11. He further submitted that the crime in the present case is grave in nature. He submits that the offence, as alleged against the accused persons, attracts a maximum punishment of imprisonment for life.

12. He submitted that the applicants are clearly seen giving beating the victim in the procured CCTV footage of the place of incident.

13. He further submitted that the applicants have been identified by the eye witnesses. He submitted that the applicants ought not to be granted bail as key witnesses are yet to be examined in the present case.

14. He submitted that if the applicants are granted bail they may flee from trial.

15. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.



2024:DHC:2652



However, at the same time, period of incarceration is also a relevant factor that is to be considered.

16. It is not disputed that the injuries with the knife were not inflicted by the applicants and it was CCL 'L' who had inflicted the stab wound.

17. The applicants are stated to be young boys of 19 years of age, who were around 18 years old at the time of the incident, and have no antecedents. This is probably the first time they have indulged into such alleged activities. Prolonged incarceration is bound to cause inexorable harm to the mental well-being of such impressionable young individuals.

18. It is also not denied that the applicants have been in custody since 26.10.2022 and 30.11.2022 respectively, barring the time the applicant Dhruv was released on interim bail.

19. It is not disputed that the trial will take a considerable amount of time to conclude. Speedy trial in the present case does not seem to be a possibility. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. The applicants cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time.

20. In view of the same, this Court is of the opinion that no purpose would be served by keeping the applicants in further custody.

21. Appropriate conditions can be imposed to allay the apprehension of the applicants tampering with the evidence or evading the trial.

22. Considering the aforesaid discussion, the applicants are directed



2024:DHC:2652



to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount respectively, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicants shall not directly or indirectly make any inducement, threat or promise to the victim or any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicants shall under no circumstance leave the boundaries of Delhi without informing the concerned SHO;
- c. The applicants shall appear before the learned Trial Court as and when directed;
- d. The applicants shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicants shall, upon their release, give their mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times.

23. In the event of there being any FIR/ DD entry/ complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

24. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the Trial and also not be taken as an expression



2024:DHC:2652



of opinion on the merits of the case.

25. The bail applications are allowed in the aforementioned terms.

AMIT MAHAJAN, J

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BAIL APPLN. 2467/2023

Page 8 of 8