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

+ **BAIL APPLN. 1747/2024**

RAHUL@TINKU

.....Petitioner

Through: Mr. Pradeep Rana, Mr. Saurabh Rajpoot, Mr. Ankit Rana, Mr. Tushar Rohmetra, Mr. Saurabh Taneja, Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Tarang Srivastava, APP for the State.

Insp. Anuj Kumar, PS Jyoti Nagar
Mr. Gaurav Kochar & Mr. Vishal,
Advocates for the Complainant.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **31.07.2024**

1. The Petitioner has approached this Court for grant of regular bail in FIR No.371/2019 dated 31.10.2019 registered at Police Station Jyoti Nagar, Shahdara for offences under Sections 302, 120B & 34 IPC read with Sections 25 & 27 of the Arms Act.

2. It is the case of the prosecution that the above FIR was registered on the information given by the uncle of the deceased to the effect that on 30.10.2019 at about 10.15 p.m., he received a call from his son Robin who told him that he in turn had received a phone call from one Keshav, a friend of the deceased, that the deceased had been shot at in the DDA Park, Loni Road, near Fire Brigade Station. He immediately rushed to the DDA Park on



his motorcycle and on reaching there, he saw inter alia the Petitioner herein along with his father and others coming out from the park and running away towards the Loni Road, Golchakkar on two motorcycles. He entered the park and heard Keshav who informed him that the deceased was lying there. The deceased had sustained gunshot injuries. He further states that the deceased, on the way to hospital, told him that he had been shot by the Petitioner herein and one Pawan. The deceased was rushed to GTB Hospital where he was declared brought dead.

3. The prosecution further alleges that the Petitioner has been implicated as there are disputes with respect to the ancestral property between the Petitioner's family and the family of the deceased. The Petitioner was arrested on 14.01.2020.

4. The learned Counsel for the Petitioner submits that the case against the Petitioner has been concocted only out of enmity between the two families. He submits that there is no eye witness and no evidence against the Petitioner and in fact even as per the FIR, the deceased was shot by one Pawan. He submits that the case against the Petitioner is based on the hearsay evidence. He submits that the applicant has been in custody for more than four years and the trial is not likely to conclude any time soon. He submits that the main witnesses have already been examined and therefore, there is no possibility of the Petitioner in any manner influencing the trial.

5. On the other hand, the learned APP for the State submits that there is substantial evidence against the Petitioner in form of the informant who has identified the Petitioner along with the others coming out from the park, where the deceased had been shot, and then moving on their motorcycles. He submits that the Petitioner should not be released on bail as the Petitioner



is also involved in other criminal cases, details whereof are given in the status report and the nominal roll.

6. Heard learned counsels for the parties and perused the material on record.

7. Learned Counsel appearing for the Petitioner places reliance on an Order dated 13.03.2024 passed by this Court in BAIL APPLN. 2562/2023 by which the co-accused has been granted bail against whom similar allegations have been made.

8. As is noted above, the Petitioner has been in custody since 14.01.2020 and as per the nominal roll, he has already been in custody for more than 4 years. The trial is not likely to conclude any time soon. It is also evident that the entire case of the prosecution hinges around the testimony of the complainant/informant, who already stands examined before the learned Trial Court. Therefore, there is no possibility of the Petitioner in any manner influencing or prejudicing the trial. The co-accused, against whom similar allegations have been made, has been already been granted bail.

9. The purpose of keeping the accused in custody is to ensure his presence at trial. In the present case, keeping the overall circumstances in mind, it is the opinion of the Court that the Petitioner is not likely to abscond in case he is released on bail. Keeping the accused in custody while the trial is pending and is likely to take long to conclude, would be a negation of his rights under Article 21 of the Constitution of India. This Court is of the opinion that the Petitioner has been able to make out a case for being released on bail.

10. Accordingly, it is directed that the Petitioner be released on bail in FIR No.371/2019 dated 31.10.2019 registered at Police Station Jyoti Nagar,



Shahdara for offences under Sections 302, 120B & 34 IPC read with Sections 25 & 27 of the Arms Act, subject to the Petitioner furnishing a personal bond in the sum of Rs.25,000/- with one local surety in the like amount, subject to the satisfaction of the learned Trial Court and further subject to the following conditions:

- i. The Petitioner will not leave the country without the prior permission of the learned Trial Court.
- ii. The Petitioner shall provide his permanent address to the learned Trial Court. The Petitioner shall also intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.
- iii. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Petitioner shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the Petitioner in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.
- v. The Petitioner shall not indulge in any criminal activities.

11. Needless to state that any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the matter.

12. With these observations, the bail application is disposed of along with pending application(s), if any.



13. Let a copy of this order be sent to the Jail Superintendent for information and necessary compliance.

JULY 31, 2024
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SUBRAMONIUM PRASAD, J