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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2562/2023**
SANTARPAL Applicant

Through: Dr.Manish Aggarwal,
Ms.Namrata Sharma,
Ms.Rambha Singh,
Mr.Saurabh Rajput, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Mr.Shoaib Haider, APP with
Insp. Praveen Kumar.
Mr.Gaurav Kochar, Mr.Vishal,
Advs. for the complainant.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
13.03.2024

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1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for the applicant to be released on regular bail in FIR No.371/2019, registered at Police Station: Jyoti Nagar, Shahdara, under Sections 302/120B/34 of the Indian Penal Code, 1860 (in short, 'IPC') and 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 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 applicant herein along with his son 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 told him that he had been shot by the son of the applicant and one Pawan. He was rushed to the GTB Hospital where he was declared brought dead.

3. The prosecution further alleges that there is some dispute with respect to the ancestral property between the applicant and the family of the deceased. The applicant was arrested on 05.11.2019.

4. The learned counsel for the applicant submits that the case against the applicant has been concocted only out of enmity between the two families. He submits that there is no evidence against the applicant and in fact even as per the FIR, the deceased was shot by the son of the applicant and one Pawan. He submits that the case against the applicant is based on the hearsay evidence. He submits that the applicant has been in custody for more than 4 years and the trial is not likely to conclude any time soon. He submits that the main witness have already been examined and therefore, there is no possibility of the applicant in any manner influencing the trial. He submits that earlier also, the applicant had been released on interim bail on three occasions, and there is no allegation of the applicant misusing the indulgence so granted.



5. On the other hand, the learned APP submits that there is substantial evidence against the applicant in form of the informant who has identified the applicant 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 applicant be not released on bail as the applicant is also involved in other criminal cases, details whereof are given in the status report.

6. I have considered the submissions made by the learned counsels for the parties.

7. As is noted hereinabove, the applicant has been in custody since 05.11.2019 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.

8. 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 applicant in any manner influencing or prejudicing the trial. The applicant was earlier released on interim bail on three occasions and there is no allegation of the applicant having misused the indulgence so granted.

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 applicant is not likely to abscond in case he is released on bail.



10. Keeping the accused in custody while the trial is pending and is likely to take long to conclude, would also be a negation of his rights under Article 21 of the Constitution of India.

11. I am therefore, of the opinion that the applicant has been able to make out a case for being released on bail.

12. Accordingly, it is directed that the applicant be released on bail in FIR No.371/2019, registered at Police Station: Jyoti Nagar, Shahdara, under Sections 302/120B/34 of the IPC and Sections 25/27 of the Arms Act, on furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant 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 Applicant shall not indulge in any criminal activities.

13. Needless to state, 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.

14. The Bail Application is disposed of in the above terms.

15. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

16. *Dasti.*

NAVIN CHAWLA, J

MARCH 13, 2024

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Click here to check corrigendum, if any