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

+ **BAIL APPLN. 2581/2023 & CRL.M.A. 4765/2024**

SUMIT

..... Petitioner

Through: Mr. Shray Kaushal, Advocate
(through VC).

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the State
with Inspector Manoj Kumar, P.S.
Shalimar Bagh.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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18.03.2024

1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 648/2018, registered at Police Station Shalimar Bagh, Delhi for the offences punishable under Sections 302/307/34 of the Indian Penal Code, 1860 ('IPC').
2. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of State.
3. Briefly stated, it is the case of the prosecution that a complaint was lodged by the complainant i.e., Akshay Khanna alleging that on 27.11.2018, the complainant's friend i.e., Tanishq Kwatra@Sunny/victim/deceased had told him that last night at around 10:00 PM, one Nikhil Sharma@Khari had



kicked his scooty and due to this reason, he had an argument with Nikhil Sharma@Khari. It is further alleged that Nikhil Sharma@Khari had threatened the victim/deceased with dire consequences. It is alleged that, thereafter, on 28.11.2018, Nikhil Sharma@Khari along with 17-18 boys had come near the house of the complainant at around 8:15 PM, where the complainant was sitting with his friends Nikhil Arora and Sunny/victim/deceased. It is further alleged that Nikhil Sharma@Khari along with his companions had forcefully taken Sunny/victim/deceased to a nearby dairy shop and had allegedly started beating Sunny/victim/deceased. Upon seeing the incident, the complainant along with his other friend ran towards Sunny to save him. However, Sunny had somehow managed to run inside a nearby shop. It is further alleged that the accused persons had then entered the said shop and had started breaking the window glasses and other items available in the said shop and thereafter, had absconded. It is further alleged that when the complainant had seen his friend Sunny/victim/deceased, he had been bleeding from his chest. After that, the complainant and his other friend had immediately taken Sunny/victim to FORTIS Hospital, where he succumbed to his injury. Thereafter, the present FIR was registered.

4. Learned counsel for the applicant states that the applicant has been falsely implicated in the present case. It is stated that there is no incriminating material available on record to connect the present accused/applicant with the offence in question. It is also stated that the material witnesses have not supported the case of the prosecution and have turned hostile including the complainant. Thus, it is prayed that the present applicant/accused be enlarged on bail since the material witnesses have



turned hostile and have not supported the case of the prosecution.

5. *Per contra*, Learned APP for the State, on instructions from the Investigating Officer (IO), states that material witnesses have turned hostile. and that no other material witness remains to be examined.

6. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record.

7. Considering the overall facts and circumstances of the case, and the fact that the material witnesses have not supported the case of the prosecution and have turned hostile, have failed to identify the accused, even the witness who has lodged the FIR has turned hostile, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.15,000/- with surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall remain available on mobile numbers; shared by him with the Police.
 - ii) The appellant will not leave the country without the prior permission of this Court.
 - iii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
 - iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
8. The bail application stands disposed of.



9. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 18, 2024/zp

Click here to check corrigendum, if any