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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3717/2021**

MOHD SALMAN

..... Petitioner

Through: Mr. Bilal A. Khan, Ms. Anshu Kapoor and Mr. Shahrukh Ali, Advocates.

versus

STATE OF NCT DELHI

..... Respondent

Through: Mr. Rajat Nair, SPP for State with Mr. Dhruv Pandey, Advocate alongwith Insp. Sanjay Kaushik, P.S. Crime Branch.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

29.05.2024

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1. By way of present application filed under Section 439 Cr.P.C., the applicant seeks regular bail in FIR No. 61/2020 registered under Sections 147/148/149/153A/505/120B/302/436 IPC at P.S. Karawal Nagar, Delhi.

1. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. It is stated that the applicant was arrested on 20.03.2020 and has been in custody since then. He submits that the matter is pending trial and all the public witnesses have been examined. It is also pointed out that there has been no recovery from the applicant in the present case. He submits that 14 more witnesses remain to be examined and that the trial is likely to take time. It is further argued that the CDR location relied upon by the prosecution is irrelevant as the chargesheet shows that the applicant was at Indra Vihar, Old Mustafabad which is



nearby the place of incident. It is also stated that there is no CCTV footage in the present matter. The photo/video relied upon by the prosecution is of one day prior to incident, which is not relevant in the present case.

2. Learned SPP for the State, on the other hand, has opposed the bail application stating that two public witnesses namely Ajeet Tomar and Amit Kumar have already been examined who have identified the applicant at the time of their testimony. He states that CCTV footage related to the incident dated 25.02.2020 could not be collected as the CCTV cameras installed near the place of the incident had already been destroyed/damaged in the evening of 24.02.2020 by the mob. He has further referred to the testimony of witnesses wherein they have identified the applicant as one of the members of a mob of 6 persons, out of which one of the persons fired upon the deceased *Dinesh Kumar*.

Learned SPP for the State further contends that the applicant is found to be involved in 2 other FIRs i.e., FIR no. 54/2020 registered under Sections 147/148/153-A/505/120-B/302/34 IPC and Section 25 of the Arms Act and FIR no. 59/2020 registered under Sections 147/148/153-A/505/120-B/302/34 IPC, both at P.S. Karawal Nagar, Delhi.

3. I have heard the learned counsel for the applicant and learned SPP for the State and have also gone through the testimonies of aforesaid two public witnesses.

4. Perusal of testimony of public witnesses shows that public witness *Ajeet Kumar Tomar*, who has been examined as PW6, has identified the applicant as part of the mob. However, he has stated the he could not see as to who had fired the bullet, which killed the deceased. Further, the applicant is alleged to be seen with a *danda* in his hand. The other public witness had



identified the applicant on the basis of photographs.

5. Considering that the charge-sheet stands filed, and the period of custody in the subject FIR and the further fact that all the material witnesses have been examined, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty M.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.

8. Copy of the order be communicated to the concerned Jail Superintendent for information.

9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the



trial as the observations have been expressed only for the purpose of the disposal of the present bail application.

MAY 29, 2024

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MANOJ KUMAR OHRI, J