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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1998/2024**

FIROZ

.....Petitioner

Through: Mr.M.L. Yadav, Mr.Harish Chand,
Mr.Anant C. and Ms.Neha, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State with
SI Satyapreet

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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11.12.2024

1. By way of present application, the petitioner/applicant seeks regular bail in FIR No.474/2020 registered under Sections 302/34 IPC and Sections 25/27/54/59 Arms Act at P.S. Kalindi Kunj, New Delhi.
2. Learned counsel for the applicant submits that the applicant has been in custody since 06.11.2020 and till date only 5 out of 35 witnesses have been examined.

On merits, it is stated that the applicant's name was not mentioned in the initial statement of the complainant, namely, *Sameer Ahmed Saifi*. The applicant's name figured only a day later in the statement of *Mohd. Arif*. He submits that the same leads to an irresistible conclusion that the applicant has been falsely implicated in the present case. It is further submitted that the eyewitness *Sameer Ahmed Saifi*, who is also the complainant in the case, has been examined and during his testimony has not supported the prosecution's case. He was declared hostile. Insofar as the other eyewitness,



Mohd. Arif is concerned, it is stated that he is a planted witness as his presence was not mentioned by the complainant in the initial statement.

3. Learned APP for the State has opposed the present application. He submits that though *Sameer Ahmed Saifi*/complainant has not supported the prosecution's case, the other eyewitness, namely, *Mohd. Arif* has been examined and has not only corroborated the prosecution's case but also identified the present applicant as the one, who took part in the incident. It is further submitted that during the investigation, the supplementary statement of the complainant under Section 161 Cr.P.C. was recorded, in which he has named the present applicant and assigned him the role of the catching hold of the deceased.

4. I have heard learned counsel for the applicant as well as learned APP for the State and have also gone through the material placed on record. The incident pertains to 04.11.2020 and statedly occurred as the deceased refused to obey the command of the co-accused *Shadab @ Pulsar*. The name of the applicant has figured in the statement of *Mohd. Arif* recorded under Section 161 Cr.P.C. as well as in the supplementary statement of *Sameer Ahmed Saifi*/complainant. Although the latter had not supported the prosecution's case, *Mohd. Arif*, during his testimony stated that the incident occurred inside a water power plant. The role assigned to the present applicant is of catching hold of the deceased while the co-accused inflicted the knife blows. Furthermore, the knife used in the incident was recovered from the applicant and the blood stain on the knife matched the blood of the deceased.

5. In view of the above-stated and the categorical testimony of the eye-witness *Mohd. Arif*, I find no ground to entertain the present application.



Accordingly, the same stands dismissed.

6. 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 of the case.

MANOJ KUMAR OHRI, J

DECEMBER 11, 2024
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