



\$~8

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

+ **BAIL APPLN. 2303/2024**

SIRAJUDULLA @ SIRAJ

.....Petitioner

Through: Mr. Rohan Akshayy, Mr. Naveen
Kumar, Mr. Shivender, Ms. Sanskriti
and Mr. Ravi Chauhan, Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP for State
with Insp. Ravindra Singh, PS Tigri.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

23.08.2024

%

1. By way of the present bail application, the applicant seeks regular bail in FIR No. 186/2019 registered under Sections 302/120B/34 IPC and Sections 25/27 Arms Act at P.S. Tigri.
2. The applicant is arrayed as an accused in the present FIR and has been in custody since 10.07.2019.
3. Learned counsel for the applicant contends that as per the prosecution case, the applicant was driving the motorcycle and the two co-accused, who were pillion riders, got down and shot the deceased. It is contended that there is no allegation against the applicant doing any overact except driving the motorcycle. Learned counsel for the applicant has further doubted the presence of the interested witness i.e., *Neeraj Sharma* (PW-1), who is the brother of the deceased, by referring to the testimonies of PW-2 i.e., *Mukesh Pandey* and PW-3 i.e., *Ramu Pal*. It is contended that *Mukesh Pandey* has



not stated about the presence of *Neeraj Sharma* at the time of the incident and he arrived at the spot after the incident. Learned counsel further submits that though the earlier bail applications were dismissed and the last bail application was dismissed on 28.03.2023, however, since then only four witnesses were examined till the filing of the present bail application and till date only 13 out of 26 witnesses have been examined. He also submits that the charge was framed on 27.09.2021 and the trial is likely to take some time. Lastly, it is stated that all the material witnesses stand examined and the applicant is not involved in any other case.

4. On the other hand, learned APP for the State has opposed the bail application by contending that the time of incident was about 9:15 pm and the brother of the deceased i.e., *Neeraj Sharma* was also at home, who had witnessed the incident as he had taken the deceased to the hospital, which is also reflected from the MLC. He further submits that the motorcycle used in the commission of offence was also later recovered at the instance of the present applicant and the same is found registered in the name of the applicant's father.

5. I have heard learned counsel for the parties and perused the records.

6 The incident has statedly occurred on 09.07.2019 at 9:15 pm near the house of the deceased. Undisputedly, as per the prosecution case, the alleged gun shot was fired by co-accused *Umar Mohd.* From the case of the prosecution as well as the deposition of the witnesses, it is apparent that it was the two co-accused persons who got down from the motorcycle and thereafter committed the offence.

7. Although the first bail application of the applicant was dismissed as withdrawn on 13.12.2021, the dismissal of second bail application on



28.03.2023 was on account of the first one being withdrawn. Though all the material witnesses stood examined even on that day but keeping in view the fact that the charges were framed in the year 2021 and so far, only 13 witnesses have been examined, the role assigned to the applicant coupled with the period of custody spent by the applicant as well as the fact that he is not involved in any other case, it is directed that the applicant be released on regular bail, subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty JM 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.
8. The bail application is disposed of in the above terms.
9. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.



10. Copy of the order be uploaded on the website forthwith.
11. 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 as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

AUGUST 23, 2024/akc