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

+ **BAIL APPLN. 2378/2024**

SAHIL

.....Applicant

Through: Mr. Anil Basoya, Mr.
Akash Gahlot & Mr. Prince
Chaudhary, Advs. (through
VC)

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State
SI Akshay & SI Kailash,
PS- Shaheen Bagh

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

24.10.2024

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1. The present application is filed seeking regular bail in FIR No. 175/2023 dated 02.06.2023 registered at Police Station Shaheen Bagh for offences under Sections 307/34 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959.
2. The FIR was registered on a complaint alleging that that the applicant and the co-accused, Aquib Raza had threatened to kill the complainant and, on being objected, the accused persons fired at the complainant from their respective pistols.
3. The learned counsel for the applicant submits that the applicant was not in Delhi at the time of the alleged incident. He submits that pursuant to the order of externment dated 22.03.2022, the applicant has not been residing in Delhi.
4. He submits that, in such circumstances, the presence of the applicant at the place of the alleged incident, is doubtful.



5. He further submits that the prosecution, though relies upon the CCTV footage of the incident, the faces of the accused persons are not visible properly and cannot be identified.

6. The co-accused, Aquib Raza was admitted on bail by order dated 04.10.2024 in BAIL APPLN. 3175/2024. It was noted that no injury was caused to the complainant and the allegation against the accused persons is that they fired a gunshot which hit the gate but did not hit the complainant.

7. It was further noted that, in the absence of the injury, whether the bullet was fired with the intention to kill would be subject matter of trial and cannot be presumed at this stage.

8. The role attributed to the applicant is not graver than the co-accused, Aquib Raza, who has already been admitted on bail.

9. The applicant is in custody since 13.02.2024 and the chargesheet has already been filed.

10. Considering the above, this Court is of the opinion that the applicant has made out a *prima facie* case for grant of bail on the ground of parity.

11. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

12. The applicant is therefore directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any



person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he shall reside upon his release, and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

13. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

14. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

15. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

OCTOBER 24, 2024
“SS”