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

+ **BAIL APPLN. 3406/2023**

SHYAM @ SAVRI

..... Petitioner

Through: Mr. Fauaz Maqbool, Ms. Vaishali
Diwan, Ms. Chinmayi Chatterjee and
Ms. Yamina Rizvi, Advocates.

versus

STATE THROUGH SHO

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

21.02.2024

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1. The present application under Section 439 of the CrPC seeks regular bail in case FIR No. 82/2021, under Sections 307/34/174A of the IPC, registered at P.S. Paschim Vihar West.
2. The case of the prosecution as per the status report authored by SHO, PS Paschim Vihar West is as under:-

“1. The brief facts of the case are that on Dt- 15.03.2021, a PCR Call vide DD No. 18A was received at PS Paschim Vihar West and the same was marked to HC Kulveer Singh No.- 804/0D who along with staff reached at the place of incident but it revealed that the injured was taken to Sanjay Gandhi Hospital, Mangolpuri, Delhi. Therefore, HC Kulveer reached at Sanjay Gandhi Hospital where the injured namely Jitesh was found admitted vide MLC No,- 4037/21. Eyewitness of the incident namely Kapil, brother of injured, was found in the hospital whose statement was recorded who stated that yesterday on Dt 14.03.2021, Savari, Dhananjay, Sushil and Kamru came to their house and started asking for a liquor bottle but Jitesh refused to provide them. So, all of them threatened them of dire consequences and went away. Toady on Dt 15.03.2021, when he along with his brother Jitesh was buying fruit at



Bhim Nagar Sabzi Mandi, Near Main Road, suddenly Savari, Sushil, Dhanajay and Kmaru came there. Sushil and Dhanajay stated beating him and Kamru grabbed his brother Jitesh from behind and Savari, who was having an iron rod in his hand, assaulted his brother very badly on his head, arms and legs. When people gathered there, they all fled away from the spot. He took his brother with the help of a known to Sanjay Ganshi Hospital who is being referred to Safdarjung Hospital, Delhi. As per the statement, a case vide FIR No.- 82/21 U/s- 308/34 IPC was registered and investigation was taken up and section 307 IPC was added. The accused persons Kamru and Dhanajay were arrested on 18/03/2021 and Sushil was arrested on Dt- 17/02/2022. The weapon of offence was recovered at the instance of accused Dhanajay. The nature of injury was opined as "Grievous".

2. On dated 30.11.2022, statement of injured Jitesh S/o Ram Bir Singh U/s 164 CrPC were got recorded by the LD LINK MM at Tis Hazari Court and the injured corroborated the facts. Therefore, it is clear that the allegations are true in nature and not afterthought.

3. The petitioner deliberately evaded his arrest and was declared Proclaimed Offender by the Hon'ble Court of Sh. Akash Sharma LD MM vide order dated 05.04.2023.”

3. Learned counsel for the applicants submits that all other co-accused in the present FIR have been released on bail. Attention of this Court is drawn to order dated 20.09.2021 passed by a coordinate bench of this Court in BAIL APPLN. 2257/2021, whereby co-accused Sushil has been granted bail. Attention is further drawn to orders dated 30.09.2022 and 23.09.2023 passed by the learned Sessions Court, whereby co-accused Amruddin and Arvind Kumar Dubey have been granted bail. It is submitted that the investigation in the present case is complete, the chargesheet *qua* applicant stands filed. It is submitted that the applicant has been in custody since 18.05.2023. As far as the other involvements of the applicant as pointed out by the Investigating Officer are concerned, it is submitted that the applicant is on bail in the said cases.

4. Learned APP for the State, on instructions of the Investigating Officer



submits that the allegation against the applicant is with respect to inflicting the injury on the victim. It is further pointed out that the present applicant was declared proclaimed offender and thereafter he was arrested. Supplementary chargesheet *qua* him has been filed under Sections 307/174A/34 of the IPC and the same is pending before the learned Trial Court.

5. Heard learned counsel for the parties and perused the record.

6. The chargesheet in the case was filed with respect to other co-accused persons, who have already been granted bail. It is also a matter of record that a cross-FIR has been registered at the instance of co-accused Amruddin against the complainant, i.e, FIR No. 130/2021, under Sections 323/341/34 of the IPC, at PS Raj Park, Outer District.

7. The investigation *qua* the applicant stands complete and a supplementary chargesheet as stated hereinabove *qua* him stands filed before the learned Trial Court. All other co-accused persons are on bail. The nominal roll dated 07.12.2023 reflects that the applicant has been in custody for 06 months and 18 days. It is further reflected that the applicant is on bail in the other cases pending against him.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with two sureties of like amount, one of whom shall be a close relative, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of



an affidavit and to the Investigating Officer regarding any change in residential address.

- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
 - vi. The applicant shall report at PS Paschim Vihar once in a week, i.e., on every Friday at 04:00 PM and the concerned officer is directed to release him by 04:30 PM after recording his presence and completion of all the necessary formalities.
9. The application is allowed and disposed of accordingly.
 10. Pending application, if any, also stand disposed of.
 11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
 12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
 13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 21, 2024/sn