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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3411/2023 & CRL.M.A. 27569/2023

ANKIT

..... Applicant

Through: Mr.S.K.Kashyap, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP with
Insp. Pawan Kumar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

29.01.2024

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1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking release on regular Bail in FIR no.228/2020 registered at Police Station: Narela, Delhi under Section 307/34 of the Indian Penal Code, 1860 (in short, 'IPC'). In the course of investigation and on the death of the injured, Section 302 IPC was invoked in place of Section 307 IPC.
2. The learned counsel for the applicant submits that the only evidence that is available against the applicant is the alleged disclosure statement made by the applicant in FIR no. 276/2021 registered at Police Station: Sector-29, Panipat, Haryana, and his refusal to take part in TIP proceedings. He further submits that the applicant has been in custody since 09.07.2021 and the chargesheet already stands filed. He submits that the trial, however, is likely to take long. He further submits that the co-



accused, namely Sh.Vikas, was released on Bail vide the judgment dated 26.07.2023 passed by this Court in Bail application no.815/2022. He submits that the applicant is placed similarly to the said co-accused and therefore, is entitled to be enlarged on Bail.

3. On the other hand, the learned APP for the State submits that during interrogation in relation to abovementioned FIR bearing no.276/2021 registered at Police Station: Sector-29, Panipat, Haryana under Sections 398/401 IPC and 25 (1)(B) of Arms Act, 1959, the applicant had made a disclosure of him being involved in the incident for which the present FIR was registered. The applicant refused to take part in the TIP proceedings but has been identified by the eyewitnesses from the documents in the dossier including the photographs.
4. He further submits that the applicant has criminal antecedents inasmuch as he has been involved in 4 previous criminal cases, details whereof are available in the Nominal Roll filed by the respondent.
5. I have considered the submissions made by the learned counsels for the parties.
6. While releasing the co-accused on Bail in identical circumstances, this Court in its judgment dated 26.07.2023, had observed as under:

“10. In the present case, as per the defence there are two evidence against the petitioner i.e. disclosure statement made by the accused in FIR 276/2021 and his refusal to take part in the TIP proceedings.



11. It is a settled proposition that the TIP is not a substantive piece of evidence. This contention of the learned Defence Counsel that mere refusal to take part in TIP proceedings cannot be a ground to refuse the bail is to be considered. Taking into account the totality of facts and circumstances and without making any observations on the merits of the case, as it may prejudice the parties, the petitioner is admitted to bail on furnishing a personal bail bond of Rs.20,000/- with one surety of the like amount to the satisfaction of the learned Trial Court subject to the following conditions:

(a) the Petitioner shall appear before the Investigating Officer of the case and trial court, as and when required;

(b) the petitioner shall under no circumstances leave India without prior permission of the Court concerned;

(c) the petitioner shall not threaten or intimidate the witnesses and shall not tamper with the evidence in any manner;

(d) the petitioner shall also surrender his passport, if any, to the investigation officer.

(e) the petitioner shall provide his mobile number(s) to the Investigating Officer/court concerned and keep it operational at all times;

(f) In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

12. The learned. Session Court is at liberty to impose other bail conditions in order to ensure the presence of the accused in the trial court proceedings and to prevent the tampering of evidence and to not to threaten the prosecution witnesses."

7. As the applicant is placed similarly to the co-accused and has been in custody since 09.07.2021, in my opinion, the applicant



has also made out a case for release on Bail.

8. Keeping in view the above facts and circumstances, the applicant is directed to be released on Bail in FIR no.228/2020 registered at Police Station: Narela, Delhi on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:
 - i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
 - ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his 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 shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.
 - v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.
9. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of



Bail and shall not be construed as an expression on the merits of the matter.

10. The application is disposed of in the above terms. Pending application is also disposed of as infructuous.
11. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

JANUARY 29, 2024
RN/AS

[Click here to check corrigendum, if any](#)