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

+ **BAIL APPLN. 3441/2023**

SHIV @ LALA

..... Applicant

Through: Mr. Ajeya Singh,
Advocate

versus

STATE

..... Respondent

Through: Mr. Utkarsh, APP for the
State with SI Mahendra
Patel, PS Narela.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

11.01.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 652/2018, under Sections 302/307/379/34 of the Indian Penal Code, 1860 ('IPC') registered at Police Station Narela.

2. This Court by an order dated 20.05.2021, passed in BAIL APPLN. 1248/2021, had dismissed the first bail application filed by the applicant and observed as under:

"4. From the statement of the injured witness Naveen, it is clear that the petitioner gave first knife blow to the deceased Deepak @ Lala and petitioner along with other accused continued to give him knife blows. No specific role of giving knife blows has been attributed by the complainant to Sachin Khatri. Hence, the petitioner cannot claim any parity with the role assigned to Sachin Khatri. Considering the role assigned to the petitioner, this Court finds no ground to grant bail to the petitioner."

3. The learned counsel for the applicant has drawn the attention of this Court towards the statement of the complainant



Naveen (PW-1) where he categorically states that he is unable to identify the persons who had caused injuries to him and the deceased Deepak @ Lala, as it was dark at that time and he could not see the faces of the assailants properly.

4. On being asked, it is informed by the concerned Investigating Officer, who is present in the Court, that the FSL report also does not support the case of the prosecution to the extent that the DNA profile from the knife that was recovered at the instance of the applicant does not match the DNA sample of the victims.

5. Without commenting on the merits of the case, considering that PW-1 in his examination has not identified the applicant and that the DNA profile in the weapon allegedly recovered at the instance of the applicant, does not match the DNA sample of the victim and the fact that one of the co-accused has already been granted bail, this Court is of the opinion that no purpose would be served by keeping the applicant in further incarceration.

6. In view of the above, the applicant is directed to be released on bail on his furnishing a personal bond of ₹50,000/- (Rupees Fifty Thousand Only) with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- i. The applicant shall not travel beyond the city under any circumstances;
- ii. The applicant shall not in any manner try to contact or influence any of the prosecution witnesses, particularly the complainant;
- iii. The applicant shall join and cooperate with the investigation as and when directed;
- iv. The applicant shall appear before the learned Trial Court



on every date of hearing;

- v. The applicant shall not indulge in any criminal activity;
and
 - vi. The applicant shall provide his mobile number to the
concerned Investigating Officer/SHO, and shall keep the
same operational at all times.
7. 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. The said
observations should also not be taken as an expression of opinion
on the merits of the case.
8. The bail application stands disposed of in the aforesaid
terms.

AMIT MAHAJAN, J

JANUARY 11, 2024/'hkaur'