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

+ **BAIL APPLN. 3761/2023**

DEEP MALA

..... Applicant

Through: Mr. Mukesh Suman, Mr.
Shiv Sahay, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through: Ld. APP Pradeep Gehlot
with Inspector Yogender
and ASI Neeraj, P.S.
Punjabi Bagh.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

20.02.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in FIR No. 217/2023 dated 06.05.2023, for offences under Section 307 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959, registered at PS Punjabi Bagh. Chargesheet has been filed against the applicant for the offence under Sections 34/307/120B of the IPC.

2. The present FIR was registered pursuant to a gunshot injury caused to the complainant/ victim, namely, Sanjay Soni.

3. It was alleged that on 06.05.2023, the victim had gone to the market on his two-wheeler vehicle (scooty). It is alleged that while returning, the victim felt that something had hit him on his back and he also heard the gun shot. When the victim stopped his scooty, he realised that he had been shot and was bleeding. On realising this, the victim got scared and somehow reached his home, where the victim's wife (the applicant) and his father-in-law immediately took him to the hospital in an auto rickshaw.

BAIL APPLN. 3761/2023

Page 1 of 4



4. During the course of investigation, the CCTV footage from the place of the incident and nearby areas was examined by the police, on the basis of which, they apprehended three persons, including the co-accused Aman Seth, who were riding on a motorcycle which had crossed the victim's scooter. The said motor cycle was allegedly being driven by the co-accused Aman.

5. On being interrogated, co-accused Aman disclosed that he was having an extra-marital affair with the applicant and that he had procured the weapon used in the commission of offence, from the money given by the applicant.

6. The CDR of the applicant shows that she was in regular touch with the co-accused Aman, and had allegedly called him on the day of the incident after the victim had left the house.

7. It is also alleged that the applicant was staying with the co-accused Aman in a house which they had taken on rent in Moti Nagar. The statement of the landlord has also confirmed that the applicant was staying with the co-accused Aman in the said premises.

8. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

9. He submits that the co-accused Aman is related to the applicant, and only because the applicant was in touch with the co-accused through phone, the same is not an evidence that corroborates the allegation that she participated in the acts of the co-accused.

10. He submits that the applicant, at some stage, was having an extra marital relation with the co-accused Aman. However, subsequently, the co-accused was pressurising the applicant to continue the relation.

11. He submits that the applicant had been staying with her
BAIL APPLN. 3761/2023

Page 2 of 4



husband, that is, the victim, at the time of the incident. He submits that the applicant is the mother of three minor children.

12. He further submits that the victim is present in court and he supports the case of the applicant that they were happily living together as husband and wife.

13. The only evidence against the applicant, at this stage, is the disclosure statement made by the co-accused Aman, who allegedly shot the victim.

14. The corroborative evidence, that is the CDR, at this stage, does not show that the applicant was in touch with the co-accused Aman in relation to the conspiracy to murder the victim.

15. As discussed above, the victim is present in the Court and does not dispute that the applicant and the victim were happily residing with each other.

16. It is also a matter of fact that the complaint, given by the victim, specifically mentioned that the applicant was the one who had taken him to the hospital.

17. The applicant is in custody since 03.06.2023 and the chargesheet has already been filed. No purpose would be served by keeping the applicant in further custody.

18. In view of the above, the applicant is directed to be released on bail on furnishing a bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. She 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. She shall under no circumstance leave the boundaries of

BAIL APPLN. 3761/2023

Page 3 of 4



the Delhi without the permission of the learned Trial Court;

- c. She shall appear before the learned Trial Court as and when directed;
- d. She shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;
- e. She shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

19. 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.

20. 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.

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

AMIT MAHAJAN, J

FEBRUARY 20, 2024

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