



\$~4

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

+ **BAIL APPLN. 3897/2023**

DHARMENDER @ MADU

.....Petitioner

Through: Ms. Sakshi Kaul, Mr. Chirag Kaushik
and Mr. Jatin Sapra, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with ACP Anil Kumar Chauhan and
SI Dharmveer.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

05.07.2024

%

By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks regular bail in case FIR No.766/2015 dated 21.12.2015 registered under sections 302/307/34 of the Indian Penal Code, 1860 and sections 27/54/59 of the Arms Act, 1959 ('Arms Act') at P.S.: Chhawla.

2. Notice on this petition was issued on 20.11.2023.
3. Status reports dated 23.02.2024 and 14.05.2024 have been filed on behalf of the State.
4. Nominal roll dated 22.04.2024 has been received.
5. The case concerns the death of one Sunil *alias* Doctor, which took place on 20.12.2015, which led to the registration of the FIR.



6. Ms. Sakshi Kaul, learned counsel appearing for the petitioner submits that the petitioner was not named in the FIR. Furthermore, it is pointed-out that the statement of the Suraj Bhan (complainant) recorded under section 161 Cr.P.C. also did not ascribe any role to the petitioner in relation to the shooting which is alleged to have lead to the death of the victim, but only mentions that the petitioner was present at the time of the offence. Ms. Kaul further points-out, that in fact the complainant's statement recorded under section 164 Cr.P.C. does not carry any reference to the petitioner.
7. Most importantly, counsel submits that the complainant has since died on 31.01.2024, having been murdered in an unrelated incident, with which the petitioner has no connection. Ms. Kaul points-out, that in fact the petitioner was arrested on 01.01.2016 in a different matter pertaining to case FIR No. 01/2016 under section 25 Arms Act registered at P.S.: Crime Branch; and in that case the petitioner has already been acquitted *vide* judgment dated 06.01.2023 passed by the learned Chief Metropolitan Magistrate, Dwarka District Courts, New Delhi by giving him the benefit of doubt. It is submitted that no appeal has been filed against the said judgment. Ms. Kaul also submits, that the fire-arm that was recovered from the petitioner in the said other case was initially alleged to have been the firm-arm used in the present case, however FSL Report dated 08.12.2017 contradicts this claim.
8. Mr. Manoj Pant, learned APP appearing for the State, very fairly submits, that by reason of the complainant's death, none of his statements can now be read in evidence. Learned APP also informs



the court that, in fact, 03 material witnesses have since turned hostile in the present case, and as submitted, the petitioner has already been acquitted in case FIR No. 01/2016 registered at P.S.: Crime Branch *vide* judgment dated 06.01.2023.

9. The nominal roll shows that the petitioner has been in custody for 08 years 02 months and 17 days as of 22.03.2024; and though his jail conduct in the last one year and overall jail conduct are stated to have been 'un-satisfactory', the petitioner has already been awarded punishments for those prison offences, and has therefore has already atoned for them.
10. The nominal roll also records that the petitioner was granted interim bail from 16.12.2020 to 21.01.2021; and there is no allegation that he did not surrender on time or that he had violated any conditions of interim bail. Furthermore, as per the nominal roll, the petitioner also does not have any other criminal involvements.
11. In the circumstances, the petition is allowed, thereby admitting the petitioner to *regular bail* on the following conditions:
 - 11.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned Trial Court;
 - 11.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 11.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned Trial Court;
- 11.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
- 11.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the Investigating Officer.
12. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
13. The petition stands disposed-of.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 5, 2024/ak