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

+ BAIL APPLN. 3924/2023 CRL.M.A. 2531/2024 (Additional documents)

AKASH@ NANU (AGE 21 YEARS)

..... Petitioner

Through: Mr. Chandan Kumar Mandal, Mr. Devender, Mr. Kamaldeep, Advs.

versus

THE STATE(GOVT.OF NCT. OF DELHI)

..... Respondent

Through: Ms. Nandita Rao, ASC (Crl.) for State with Mr. Amit Peswani, Adv. alongwith Insp. Dharmender & SI Deepak Kumar, P.S. Jahangir Puri.

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

ORDER
16.02.2024

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1. The present application under Section 439 read with Section 482 of the CrPC seeks regular bail in case FIR No. 765/2021 under Sections 307/34 of the IPC and Sections 25/27/54/59 of the Arms Act registered at PS Jahangi Puri.

2. The case of the prosecution, as per the status report dated 21.01.2024 authored by Inspector Arun Kumar Chauhan, SHO, PS Jahangir Puri, is as under:

“1) On 14/08/2021, a PCR call vide DD no. 110A was received at PS



Jahangir Puri Delhi regarding quarrel. IO/ASI Brij Bhushan along with staff reached at the spot where it was found that in the quarrel four persons have sustained gunshot injury and all four injured persons namely (1) Sunil @ Annu s/o Basant Lal R/o G-1664, Jahangir Puri Delhi (2) Azmat w/o Shamsheer Ali R/o D-743, Jahangir Puri Delhi (3) Ruksar D/o Sheikh Safruddin R/o Jhuggi No.243, CD Park, Jahangir Puri Delhi (4) Sheikh Siraj s/o Sheikh Jamshed have been rushed to BJRM Hospital, Jahangir Puri Delhi. Anil Sonkar s/o Late Sh. Basant Lal Sonkar R/o G-1684, Jahangir Puri Delhi brother of injured Sunil stated that Nitin, Paras, Akash and his associate had fired on his brother namely Sunil @ Annu and in this incident three more persons have also been injured by gunshots. On the statement of Anil Sonkar, a case vide FIR No.765/21, u/s 307/34 IPC and 25/27/54/59 Arms Act was registered at PS Jahangir Puri Delhi and investigation was carried out.

2) During the course of investigation, it was found that two accused namely Nitin s/o Sh. Rajender Singh R/o G-531, Jahangir Puri Delhi and Akash @ Nanu S/o Manoj R/o G-531, Jahangir Puri Delhi were apprehended on the spot itself and both accused namely Nitin s/o Sh. Rajender Singh R/o G-53 1, Jahangir Puri Delhi and Akash @ Nanu S/o Manoj R/o G-531, Jahangir Puri Delhi were arrested on 15/08/2021 in this case. One pistol and 2 live cartridges were recovered from the possession of accused Nitin. Three live cartridges were recovered from accused Akash @ Nanu. One Vehicle ie., Scooty No. DL 8 SCW 0144 on which the accused persons arrived at the spot was also recovered on the instance of accused Nitin and the Scooty was found to be registered in the name of accused Nitin. During investigation accused Nitin had disclosed that his associate Himanshu and he had fired on Sunil @Annu on some personal issues. During further investigation accused Jai Prakash @ Himanshu was also arrested in the present case on 20.08.2021. Accused Jai Prakash @ Himanshu has been correctly identified by the eyewitnesses during TIP proceedings.

3) During the course of investigation MLCs of all four injured persons were deposited in BJRM Hospital, Jahangir Puri Delhi for nature of injury and result regarding nature of injury has been opined as simple on the MLC of injured Rukshana (@ Rukhsat and Azmat. The 2 rest two are opined grievous on the MLC of injured Sunil @Annu and Sheikh Siraj.

4) The charge sheet has been already filed. Case at the stage of prosecution evidence. PW-1(Sunil), PW-2 (Ruksana), PW-3 (Ajmunisha @ Azmat) and PW-4 (Sheikh Siraj) have been examined. There are total 35 prosecution witnesses.



3. Learned counsel for the applicant draws the attention of this Court to the statements of the injured witnesses, i.e., Sunil @ Annu (PW-1), Ruksana (PW-2), Ajmunisha @ Ajmat (PW-3) and Sheikh Siraj (PW-4) recorded before the learned Trial Court, wherein the said witnesses have not supported the case of the prosecution and have not identified the present applicant. It is pointed out that the prosecution has cited 35 witnesses, out of which 04 have been examined. It is submitted that the applicant has been in custody since 15.08.2021. It is submitted that the applicant was granted interim bail and he duly surrendered upon expiry of the same, without misusing the liberty granted to him. It is further pointed out that the applicant is not involved in any other case and has clean antecedents.

4. Learned Additional Standing Counsel for the State, on instructions of the Investigating Officer confirms the fact that the injured witnesses named hereinabove have not supported the case of the prosecution before the learned Trial Court, inasmuch as the identity of the applicant is concerned. It is submitted that certain public witnesses in the locality are yet to be examined. It is submitted that there is a strong apprehension that if released on bail, the applicant shall pose a threat to the witnesses.

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

6. The star witnesses of the prosecution, i.e, the injured eye-witnesses named hereinabove have not supported the case of the prosecution in their statements recorded before the learned Trial Court with regard to the identity of the present applicant. The other public witnesses, as pointed out by the learned Additional Standing Counsel, are not witnesses to the shooting but to the apprehension of the present applicant.



7. Nominal roll dated 17.01.2024 reflects that the applicant has been in custody for 02 years 04 months and 17 days. It is further reflected that the applicant was released on interim bail and duly surrendered on time upon its expiry. As far as the apprehension expressed by the learned Additional Standing Counsel for the State is concerned, nothing has been placed on record to substantiate the same. The prosecution has cited 35 witnesses, out of which only 04 have been examined so far and therefore, the trial is likely to take time.

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 in the sum of Rs. 25,000/- with two sureties of the like amount subject to the satisfaction of the learned Trial Court/Link Court, further subject to the 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 report at the concerned police station, i.e. P.S. Jahangirpuri once in a week, i.e., on every Monday at 4:00 PM and the concerned officer is directed to release him by 4:30 PM after recording his presence and completion of all the necessary formalities.



- vi. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
9. The application is allowed and disposed of accordingly.
10. Pending applications, 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 16, 2024/nk