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

% ***Date of Decision: 22.03.2024***

+ **BAIL APPLN. 3932/2023**

AKSHAY CHAUHAN

..... Petitioner

Through: Mr. Deepak Singh Thakur and
Ms. Komal Verma, Advocates

versus

STATE

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC for
the State with Ms. Anvita
Bhandari, Mr. Kunal Mittal, Mr.
Arjit Sharma and Mr. Vaibhab
Vats, Advocates and with SI
Ravi Shankar, P.S. Patel Nagar.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARNA KANTA SHARMA, J. (ORAL)

1. The instant application under Section 439 of the Code of Criminal Procedure ('Cr.P.C. '), 1973, has been filed on behalf of the applicant seeking grant of regular bail in case FIR bearing no. 329/2020, registered at Police Station Patel Nagar, Delhi for the offences punishable under Sections 307/201/120-B/34 of the Indian Penal Code ('IPC'), 1860 and Sections 25/27 of Arms Act, 1959.

2. Brief facts of the present case are that on 10.07.2020, at about



5.40 pm, when the complainant Mr. Lakshay Nagpal had reached near HDFC Bank East Patel Nagar, two boys had come on a motorcycle and the boy sitting on the rear seat of motorcycle had shot at complainant. As a result, the complainant had suffered a gunshot injury on his right buttock. The complainant was taken to Dr. BLK Hospital Rajendra Place for treatment where his MLC was prepared and the injury was opined to be grievous in nature. The statement of complainant was recorded wherein it was stated by him that his sister had got married to co-accused i.e. Vishal Sharma about 5 years back, but they had got divorced in October, 2019. However, the applicant had been extending threats to kill the complainant and his brother and thus, the complainant had stated that he would have been attacked by the present applicant. Thereafter, the present FIR was registered for the offences punishable under Sections 307/506/201/120-B/34 of IPC and Section 25/27 of Arms Act.

3. Learned counsel for the present accused/applicant argues that the applicant has been falsely implicated in the present case, and there is phone call or positive scientific evidence which connects the applicant to the present case. It is also stated that the applicant was arrested only on the disclosure of the main accused and there is no crucial piece of evidence against the applicant. It is further stated that the recovery was implanted on the applicant and have only been cited to fill in the lacunas of the story of the prosecution. It is argued that there are 33 witnesses in the present case, and it will take a long time for the trial to conclude. It is also submitted that the co-accused in the present case has



been already granted bail by this Court. Therefore, it is prayed that the applicant be enlarged on regular bail.

4. *Per contra*, learned ASC for the State opposes the present bail application and argues that it is a serious case of attempt to murder and the present applicant was driving the motorcycle on which co-accused Ramdev was sitting and who had fired the gunshot at the complainant and whose regular bail has been rejected. It is also stated that material witnesses are yet to be examined before the learned Trial Court. Therefore, it is prayed that the application for grant of regular bail of the applicant be rejected.

5. This Court has heard arguments addressed by both the parties and has perused the material placed on record.

6. In the present case, the complainant had been shot at his right buttock and as per the MLC, the gunshot injury received by him was opined to be grievous in nature. During investigation, the analysis of CCTV footage and examination of Call Detail Records had revealed the presence of present applicant Akshay and co-accused Ramdev at the spot of incident.

7. As per Status Report filed on record, during investigation, raids were conducted at the house of applicant Akshay and one KTM Duke bike was seen in the parking of ground floor of his house, which had similar appearance to the bike used in the incident. In the intervening night of 13/14.07.2020, applicant Akshay and co-accused Guddu Kumar were apprehended while they were travelling in a Maruti Dzire Taxi bearing No. DL1ZB3561. From the personal search of present



applicant, one country made Pistol of 7.65 mm bore containing 4 live rounds in its magazine and two spare magazines were recovered from his jeans, each containing two live rounds of the same bore. The search of Swift Dzire Car also led to recovery of one black colour Helmet having silver coated design, which was similar to the suspect driving bike used in the incident. Furthermore, it was at the instance of present applicant that a raid was conducted at a Hotel in Dwarka from where the co-accused Vishal and Ramdev were arrested.

8. As per the case of prosecution, applicant Akshay was riding the bike wearing helmet and co-accused Ramdev was the pillion rider who had fired at the complainant. On the day of shootout, co-accused Ramdev and present applicant Akshay had purchased the KTM duke bike offered on OLX, for Rs. 57,000/- by making cash payment. Thereafter, they had come to East Patel Nagar to execute the plan to kill Lakshay Nagpal i.e. the complainant.

9. As far as the contention of the learned counsel for the applicant that co-accused Vishal who was the main conspirator and another co-accused Guddu Kumar has been granted bail, this Court finds no merit in it since the present accused/applicant was present at the spot, who was riding the bike in question, and his pillion rider had shot at the complainant. Further, as per status report on record, the applicant is also involved in two other criminal cases of similar nature. Thus, the role of the present applicant is different from that of co-accused persons who have been granted bail.

10. The bail application of co-accused Ramdev, who was also



allegedly present at the spot and had fired at the complainant while riding on the bike with the present applicant, was also dismissed by this Court *vide* order dated 21.08.2023 in *BAIL APPLN. 2751/2023*. The SLP against the said order was also preferred which was withdrawn after addressing some arguments. The order dated 20.11.2023 passed by Hon'ble Apex Court in *SLP (Crl.) No. 14743/2023* reads as under:

“After arguing for some time, learned counsel appearing for the petitioner wants to withdraw the present petition.

The present petition is, accordingly, dismissed as withdrawn along with pending application(s), if any.”

11. The trial in the present case has already begun and the case is at the stage of prosecution evidence. Material witnesses are yet to be examined in the present case. Considering the seriousness of the offence, the role of the applicant and the material collected during the investigation, this Court finds no ground to grant regular bail to the applicant at this stage.

12. In view of the above, the present application stands dismissed.

13. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 22, 2024/zp