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

+ **BAIL APPLN. 3991/2023**

RAHUL SHARMA @ MOTA

..... Petitioner

Through: **Mr. Santosh Singh Bagga, Advocate**

versus

THE STATE GOVT OF NCT DELHI

..... Respondent

Through: **Mr. Manoj Pant, APP for the State
with SI Manoj Kumar, P.S. Nihal
Vihar.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

07.02.2024

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1. The instant application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 636/2019, registered at Police Station Nihal Vihar, Delhi for the offences punishable under Sections 307/34 of the Indian Penal Code, 1860 ('IPC') and Section 25/27 of Arms Act.

2. Issue notice. Mr. , learned APP accepts notice on behalf of State.

3. Briefly stated, the facts of the present case are that the present FIR was registered on the complaint of the complainant Deepak Mathur, who had alleged that accused persons including the present applicant/accused had indiscriminately fired on the complainant and his friends. It has been alleged by the complainant that on 08.09.2021, at about 1:00 am, when the



complainant was having tea at a tea stall with his friends Pradeep and Rahul, a black Santro Car had arrived at the spot, in which co-accused persons Narendra @ Akhtar, Sunil, Sachin Pal and the present applicant/accused Rahul Sharma @ Mota were sitting. Thereafter, the accused persons had started shouting indiscriminately towards them. Resultantly, the complainant and his two friends had received gunshot injuries and were taken to Sanjay Gandhi Memorial Hospital, Delhi. The present FIR was then filed on the basis of the opinion given on MLC, against the accused persons.

4. Learned counsel for the applicant argues that the applicant has been falsely implicated in the present case, and has been in judicial custody since 17.09.2019. It is argued that complainant Deepak has refused to identify the applicant at the time of his examination before the concerned Trial Court. It is also argued that there are total 52 witnesses in the present case and out of which only one witness namely Deepak Mathur has been examined till date, and during his examination, he refused to identify the present applicant/accused. It is further argued that co-accused in this case has already been granted bail by the learned Trial Court *vide* order dated 27.04.2021. Thus, the present applicant/accused be enlarged on bail.

5. *Per contra*, learned APP for the State vehemently opposed the application on the ground that allegations against applicant/accused are of serious and grave in nature. It is argued that the present applicant/accused alongwith other accused persons had opened fire upon the complainant. It is also argued that the trial is at crucial stage as all material witnesses are yet to be examined. Thus, the bail application of the present applicant/accused be dismissed.

6. This Court has heard arguments addressed by learned counsel for the



applicant as well as learned APP for the State, and has perused material on record.

7. This Court notes that the allegations against the present applicant/accused is that he had indiscriminately opened fire at the complainant. It is noted that the chargesheet in the present case has already been filed. The present applicant/accused has been in judicial custody since 17.09.2019. This Court has also perused the testimonies of complainant Deepak, recorded before the learned Trial Court, which reveals that the complainant had failed to identify the present applicant/accused.

8. Considering the overall facts and circumstances of the case and the period of custody undergone by the accused, this Court is inclined to grant regular bail to accused/applicant on his furnishing personal bond in the sum of Rs. 10,000/- with one surety bond of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms & conditions:

- i) The applicant accused will not absent himself before the learned Trial Court;
- ii) In case if any emergency, he will ensure that he will move appropriate application before the learned Trial Court in this regard.

9. Accordingly, the present application stands disposed of, in above terms.

10. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 7, 2024/zp

Click here to check corrigendum, if any