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

Pronounced on: 06.05.2024

+ **BAIL APPLN. 4059/2023 & CRL.M.(BAIL) 1696/2023**

SURENDER SODHI @ SHAMMI

..... Petitioner

Through: Mr. Tarun Chandhiok, Mr. Mohit
Bhardwaj and Mr. Varun Chandhiok,
Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Hemant Mehla, APP for State
with SI Neeraj, PS. Preet Vihar.
Mr. Pradeep Kumar Arya, Mr. Aditya
Kumar Yadav, Mr. Gaurav Chaudhry,
Ms. Garima Chaudhry and Mr.
Vaibhav Chaudhry, Advocates for
complainant.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in FIR No.0022/2018 under Sections 307/506 IPC and 27/54/59 Arms Act, 1959 registered at PS Preet Vihar.



2. The case of the prosecution as borne out from the status report is that on 14.02.2018, the present FIR was registered at PS Preet Vihar on the statement of the victim/complainant/Ravi Gupta. According to his statement, on 14.02.2018 at around 6:00 AM, the petitioner and one Javed, who were known to him and his son, came to his residence on the pretext of discussing some dispute between the complainant's son and the petitioner's nephew. During the discussion, the petitioner whipped out a pistol and shot at the victim which resulted in a gunshot injury on the right shoulder of the complainant. It was further stated that the petitioner pointed the gun at the complainant's wife as well but was overpowered by Javed and thereafter, fled the scene of the incident.

3. Learned counsel for the petitioner at the outset submits that the version of the complainant has many gaps, inasmuch as neither the petitioner nor the co-accused were named at the time of the first PCR call or during preparation of the MLC. As per the counsel, their names were inserted later on as an afterthought. Further, he submits that the alleged blood pool at the place of incident was cleaned and no chance prints could be lifted therefrom. Furthermore, no public witness has come forward, not even the neighbors of the complainant residing in the same building, after hearing a bullet shot.

4. Learned counsel states that the complainant resides in a gated colony manned by guards, who record the details of all the visitors and the entire locality is under supervision of CCTV cameras. He submits that the investigation is silent about the entry-exit registers, statements of the guards



at the relevant time and even the CCTV footage of the main gate of the building has admittedly been proven otiose.

5. He further submits that the complainant has filed multiple complaints against the petitioner, most of them having ended in the petitioner's acquittal. He states that in case FIR No.08/2012 registered at PS Preet Vihar, the complainant had leveled similar allegations against the petitioner and the Ld. Special Judge, East District, Karkardooma District Courts, Delhi in Crl. Rev. No. 27/2016, while setting aside the summoning order against the petitioner herein, directed the investigation agency to initiate proceedings under Section 182 IPC against the complainant.

6. As regards the involvement of the petitioner in other cases whilst on interim bail, learned counsel for the petitioner submits that the case FIR No. 06/2023 registered at PS Sadar Bazar has been quashed *vide* order dated 17.08.2023 passed by this Court in Crl.M.C. 3166/2023.

7. In NCR no.03/2023, he submits that it has been established to be a case of mistaken identity. He further submits that in case FIR No.1102/2023 registered at PS Sadar Bazar, the learned Metropolitan Magistrate-06, Tis Hazari Court, Delhi has granted bail to the petitioner *vide* order dated 27.10.2023 wherein it was also observed that the ingredients of the offence cannot *prima facie* be made out. Reliance has been placed on the judgment dated 13.04.2023 in the case titled "***Janbaz Ahmad Dass v. Union Territory of J & K***" rendered by the Srinagar Bench of the High Court of Jammu & Kashmir and Ladakh.

8. He submits that only public witnesses cited are the complainant, his wife and his daughter, all of whom have been examined. Therefore, there is



no possibility for the petitioner to tamper with the evidence/witnesses. It is in this backdrop that learned counsel for the petitioner urges that the petitioner may be enlarged on regular bail.

9. *Per contra*, the learned APP appearing on behalf of the State has argued on the lines of the Status Report. He submits that the petitioner has been accused of a grave and serious offence, therefore, he may not be enlarged on bail.

10. He submits that the petitioner is a habitual and hardened criminal, involved in 12 other criminal cases and is a 'BC' of several police stations. Further, in the present case, he was declared a proclaimed offender (PO) *vide* order dated 02.07.2018 and could only be arrested after more than six and a half months of being declared a PO and after 11 months of commission of the offence, therefore, if enlarged on bail, the petitioner may abscond and may not be available to face the trial.

11. He submits that the case is based upon the testimony of the victim who has fully supported the case. Further, the statements of wife and daughter of the victim has also strengthened the case of the prosecution. However, the trial is still at a nascent stage where the majority of the witnesses are yet to be examined, therefore, there is every possibility that the petitioner in the event of being enlarged on bail will influence the witnesses and tamper with the evidence.

12. Learned counsel for the complainant has also addressed arguments analogous to the submissions made by the learned APP. Additionally, he submits that the petitioner is involved in 27 criminal cases and is a 'BC' of PS Shakarpur, Delhi. The life of the complainant and his family members is



under threat from the petitioner/accused and his gang. The complainant has also been granted protection by the orders of this Court, because of threat perception to the complainant and his family members from the petitioner and his gang.

13. He further submits that the offence committed by the complainant is heinous as he entered into the house of the complainant with co-accused and fired at the complainant with his revolver and while leaving stated that he will kill the entire family of the complainant. The bullet entered to the shoulder and got stuck in the stomach of the complainant. The complainant had to be admitted in Medanta Hospital, around 09 times and has undergone 07 surgeries and is still under treatment. The complainant has been advised for further surgery as well.

14. He submits that prior to the deadly attack involved in the present case, in the past also the petitioner/accused and his gang had attacked the complainant, his son and other family members on multiple occasions and separate FIRs were registered against the petitioner/accused on the complaint of the complainant, and the same are pending trial.

15. He submits that the petitioner misused the concession of interim bail on 04 occasions and was found to be involved in total 04 unlawful activities during the period of interim bail which led to the registration of following FIRs:

- a) FIR No.0006/2023 under Sections 420/467/468/471/506/34 IPC registered at PS Sadar Bazar, North District;



- b) FIR No. 1102/2023 under Sections 323/448/389/367/370/397/452/34/120B IPC registered at PS Sadar Bazar, North District;
- c) FIR No.1104/2023 under Sections 323/341/506 IPC registered at PS Sadar Bazar, North; and
- d) FIR No.0003/2023 under Section 506 IPC registered at PS Nabi Karim, Central District.

16. He submits that the past conduct of the petitioner depicts a reasonable likelihood and propensity of involvement in other crimes, if enlarged on bail, therefore, it is not desirable in the greater good of the society and public order to release the petitioner on bail.

17. I have heard the learned counsel for the petitioner, the learned APP for the State, as well as, the learned counsel for the complainant and have also perused the material on record.

18. A perusal of the testimonies of the eye witnesses Ravi Gupta/PW-1 (complainant), and his wife Alka Gupta/PW-5 and his daughter Bhakti Gupta/PW-7 shows that they have supported the case of the prosecution.

19. It is not in dispute that the petitioner/accused is involved in various other criminal cases. Three cases which were recently registered are of the period during which the petitioner was granted interim bail and one of the FIR bearing FIR No.1102/2023 registered at PS Sadar Bazar was registered in the recent past on 02.10.2023 in which the commission of serious offences under Sections 323/448/389/367/370/397/452/34/120B IPC has been alleged.



20. It is also not in dispute that due to the threats being extended by the petitioner to the complainant and his family members, they have been granted protection by this Court.

21. Apart from the eye witnesses, other witnesses are also required to be examined in the present case. Considering petitioner's involvement in other cases and the allegations of threat against him, there is likely possibility that if enlarged on bail he may try to tamper with the evidence.

22. Further, the allegations of commission of three offences by the petitioner during the period he was released on interim bail including one under sections 323/448/389/367/370/397/452/34/120B IPC for which FIR No.1102/2023 was registered at PS Sadar Bazar on 02.10.2023, shows petitioner's scant regard for the law and at same time gives rise to an apprehension that he may misuse the liberty and temper with the evidence, if enlarged on bail. Given the aforesaid circumstances, there is a likely possibility the petitioner may commit a serious offence while on bail.

23. Furthermore, the manner in which the complainant was shot by the petitioner by entering into the residence of the complainant and threats were extended to other family members, as well as, the persisting threat perception, goes a long way to show that there could be threat to the life of the complainant and his family members as well, if the petitioner is released on bail.

24. Needless to say, that the offence committed by the petitioner is serious and grave in nature that carries punishment upto life imprisonment. In the aforesaid circumstances, the petitioner does not deserve the concession of bail at this stage.



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25. Accordingly, the bail application stands dismissed. However, the learned Trial Court is directed to expedite the trial within a period of one year from today.
26. All the pending applications, if any, are disposed of.
27. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J.

MAY 06, 2024/MK