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

+ **BAIL APPLN. 4061/2023**

SAGAR

..... Applicant

Through: Mr. Rakesh Kumar, Mr.
Shailendra Mani Tripathi,
Mr. Pawan Kumar, Mr.
Kumar Gautam, Ms.
Sapna Sharma and Ms.
Lakshya Rathi, Advs.

versus

STATE OF NCT OF DELHI AND ANR. Respondents

Through: Mr. Utkarsh, APP for the
State with IO/ASI Santosh
Kumar, PS KNK Marg.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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21.02.2024

1. The present application is filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (**CrPC**), seeking regular bail in FIR No. 68/2023 dated 04.02.2023, registered at Police Station K. N. Katju Marg, for offence under Section 307 of the Indian Penal Code, 1860 (**IPC**).
2. The present FIR was lodged at the behest of the complainant, namely, Aman, who alleged that on 03.02.2023, at around 4:15 p.m. while he was going to his home, he met the applicant on the way and a heated argument took place between them and the applicant hit him. It is alleged that the complainant called his uncle's son, namely, Sandeep / victim and a quarrel took place between the applicant and the victim during which the applicant ran to his house and brought an axe with him and

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attacked Sandeep on his head with the axe with the intention of killing him. The applicant was arrested on 04.02.2023.

3. The complainant alleged that the victim's head got cracked and there was blood flowing on the street, which led to registration of the present FIR.

4. The learned counsel for the applicant submits that the applicant is also a victim and has been falsely implicated as an accused in the present case.

5. He submits that no weapon has been recovered from the place of incident and the weapon of offence (axe) was falsely shown to be recovered from the place of the applicant.

6. He submits that the alleged incident took place at a crowded place, however, no eye witness is there in the present case.

7. He submits that the applicant is a young man aged 22 years and has clean antecedents. He submits that the applicant was studying at Delhi University at the time of his arrest, therefore his whole future will be ruined due to his false implication in the present case.

8. He submits that the chargesheet has already been filed in the present case and the investigation has concluded and the applicant is no longer required for custodial interrogation.

9. The learned Additional Public Prosecutor for the State vehemently opposes the grant of bail to the applicant and submits that the applicant has inflicted multiple grievous injuries with a deadly weapon on the victim. He submits that the applicant is involved in grave offence which might have caused the death of the victim.

10. At the time of considering bail application, this Court is not required to dwell upon the minute details of the merits of the



case, the same are a matter of trial.

11. It is to be borne in mind that at the pre-conviction stage, there is a presumption of innocence. Detention is not supposed to be punitive or preventive.

12. It is also apposite to refer to the observations made by the Hon'ble Supreme Court in the case of ***Sanjay Chandra v. CBI : (2012) 1 SCC 40***. The relevant paragraph is reproduced as below:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

13. It is not disputed that victim has since recovered. The investigation in the present case is complete and the charge sheet has been filed. Evidently, the custody of the applicant is no longer required.

14. The victim and the applicant are not stated to be known to



each other. It appears that a scuffle took place on a road and it is not the case of the prosecution that the parties had a prior enmity. Whether the applicant had attempted to murder the victim is a matter of trial.

15. Considering the aforesaid facts, and the fact that the applicant is a young man of 22 years and is in judicial custody since 04.02.2023, this Court is of the opinion that no purpose would be served by keeping the applicant in further incarceration.

16. In view of the above, the applicant is directed to be released on bail in FIR No. 68/2023 on furnishing a bail bond for a sum of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate on the following conditions:

- a. The applicant shall provide the address where he would be residing after the release and shall not change the address without informing the concerned IO/ SHO;
- b. The applicant shall appear before the learned Trial Court as and when directed;
- c. The applicant shall under no circumstance leave National Capital Region without the permission of the Trial Court;
- d. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

17. In the event of there being any FIR/DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal.

18. The present application is allowed in the aforesaid terms.



19. It is clarified that the observations made hereinabove are only for the purpose of considering the bail application and the same shall not be deemed to be an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

FEBRUARY 21, 2024

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