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

+ **BAIL APPLN. 2842/2024**

VIKRAM@SONU

.....Petitioner

Through: Mr. Rahul Lather, Adv.

versus

STATE

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Vijay Singh, PS Kanjhawla.
Mr. Sushil Kumar Pandey and Ms.
Neha Yadav, Advs. for Complainant.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

12.09.2024

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1. This petition has been filed seeking regular bail in FIR No. 241/2019 PS Kanjhawala under Sections 307/506/120B/34 IPC & 25/27/54/59 Arms Act. The petitioner has been in custody since 16th July, 2019 and has not sought any interim bail in the meantime.
2. Counsel for the petitioner highlights the fact that the total custody period has been more than five years. As regards the previous involvements which are noted in the Nominal Roll, it is stated that in FIR No.172/2016 he has been acquitted, as regards FIR No.248/2019 PS Rai Sonipat he is on bail, and as regards FIR No.398/2013 PS Ballabharh is on a cheating issue. The jail conduct has been satisfactory, as per the Nominal Roll.
3. This FIR was registered basis the complaint made by the complainant/Smt. Raj Rani wife of Sh. Hawa Singh resident of Village



Jaunti, Kanjhawala, Rohini, Delhi which she alleged that at 5:05 A.M. on 28th June, 2019 the petitioner came to her house alongwith various people namely, Ravinder, Sahil and Vikram and fired towards her and son Netrapal. As per the status report, the complainant receives simple injuries while the son Netrapal receives grievous injuries. The complainant was examined as PW-1 and her testimony has been recorded. Netrapal's testimony was recorded as PW-2. However, in 2014 he passed away. Hawa Singh's testimony has been recorded as PW-3.

4. Although, the APP for the State states that the testimonies of the witnesses support the case of the prosecution, counsel for the petitioner point out that there was a previous land dispute between the parties which is evident from the FIR itself. Moreover, the police had arrived at 6:16 A.M. at the place of the incident, but the FIR was registered at 4:00 P.M. and the delay in the registration of the FIR supports their contention that the petitioner was implicated falsely. Moreover, all those who were named above in the FIR had not been charge-sheeted. He points out also to a complaint which was filed before the ACP, Delhi on 08th April, 2019 by the petitioner against the son of Hawa Singh stating that he apprehends that he shall be falsely implicated because of disputes between them.

5. Considering the contention of the petitioner and the material witnesses have been examined and the trial is still to take some time and the petitioner has been in custody for more than five years, this Court considers this fit to grant bail to the petitioner on the following conditions.

6. The Hon'ble Supreme Court in **Satender Kumar Antil v. CBI**, (2022) 10 SCC 51, observed as follows:

"12. The principle that bail is the rule and jail is the exception has



been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...

(emphasis added)

7. The Hon'ble Supreme Court further made note of their observations in **Sanjay Chandra v. CBI**, (2012) 1 SCC 40, as under:

“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.”

(emphasis added)

8. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on



furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

9. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

10. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.



11. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 12, 2024/MK