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

+ **BAIL APPLN. 4150/2023**

SHIVAM@ SHILU

..... Petitioner

Through: Mr. Kartickay Mathur and Mr. Shanker, Advocates

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms. Shubhi Gupta, APP for State with SI Vishwas, PS: Patel Nagar.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

21.02.2024

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1. This application has been filed by the Applicant Shivam @ Shilu S/o Sh. Rajesh Kumar under Section 439 Cr.P.C. for grant of regular bail in FIR No. 6000/2022 dated 05.10.2022 under Sections 307/34 IPC and Sections 25/27 of Arms Act, 1959, registered at PS: Patel Nagar.

2. Case of the prosecution is that a PCR call was received at PS: Patel Nagar and thereafter, IO ASI Raj Kumar reached the crime spot where he found an injured person who was taken to RML Hospital. Statement of the injured person/Complainant was recorded on the next day and he stated that he was involved in a heated argument with an unknown person and after some time, 4-5 other persons, which included the Applicant joined him and the Applicant fired on the Complainant with one *desi katta* and the bullet hit his thigh. Other persons were carrying knives with them. Complainant also handed over the fired bullet and the same was taken into police possession. Consequently, FIR was registered and CCTV footage of the crime spot was examined. On further investigation, arrests of co-accused persons were made



and the Applicant was also arrested on 04.03.2023.

3. Learned Counsel for the Applicant urges that Applicant is innocent and has been falsely implicated. Applicant was not named in the FIR and his name was added only after the supplementary Charge Sheet was filed. Investigation is complete and the Applicant, who is in judicial custody since 04.03.2023, is no longer required to continue in judicial custody. The allegations against the Applicant are that he fired on the Complainant/ injured Guddu with one *desi katta*, however, perusal of the MLC shows that the injury was opined to be simple in nature. The alleged *desi katta* has not been recovered from the possession of the Applicant or at his instance. The trial is still at the stage of arguments on charge and is not likely to conclude soon. Alleged presence of the Applicant in the CCTV footage is a matter of trial, as the authenticity of the electronic evidence is yet to be proved. Co-accused Deepak and Satish facing similar allegations of commission of offence under Sections 307/34 IPC have been granted regular bails by the Trial Court.

4. Learned APP, *per contra*, opposes the application on the ground that the allegations against the Applicant are serious in nature, as he is the one who had fired at the Complainant, although it is candidly admitted that the injury on the victim has been opined to be simple in nature in the MLC. It is argued that Applicant can be seen in the CCTV footage close to the place of incident and the *desi katta* has been recovered from the associates of the Applicant. Applicant is involved in two previous cases of physical assault.

5. This Court has heard arguments on behalf of the Applicant as well as on behalf of the State.

6. Applicant is in judicial custody since 04.03.2023. Allegations are that



Applicant fired from a *desi katta* at the Complainant, however, the MLC clearly reflects that the injury was opined to be simple in nature. No weapon has been recovered from the possession of the Applicant or at his instance. Investigation is complete and Charge sheet as well as supplementary Charge Sheet stand filed. Trial is still at the stage of arguments on charge and is not likely to conclude in the near future. Two co-accused Deepak and Satish have been granted regular bails by the Trial Court.

7. Considering the overall facts and circumstances, this Court is inclined to grant regular bail to the Applicant. It is thus directed that the Applicant shall be released on regular bail, subject to his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of like amount to the satisfaction of the learned Trial court and further subject to the following conditions:-

- i. Applicant shall not leave the country without prior permission of the Trial Court;
- ii. He shall furnish his permanent residential address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in the residential address;
- iii. He shall provide his mobile number to the IO and shall keep the same active at all times and the mobile number shall not be changed without prior intimation to the IO and the Trial Court;
- iv. He shall not indulge in any criminal activity or communicate with or come in contact with the victim and witnesses and/or any other person associated with the present case and/or intimidate them;
- v. He shall report to the concerned IO once a month on every third



Saturday at 02:00 PM; and

- vi. He shall appear on every date of hearing before the Trial Court unless exemption is sought and granted by the Court on any given date.
8. Nothing stated in this order shall tantamount to expression of opinion on merits of the case.
9. Application is allowed and disposed of.
10. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

FEBRUARY 21, 2024/kks/shivam