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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2976/2024**
ATHONY BAGHEL @ VIKAS

.....Petitioner

Through: Mr. Suraj Prakash Sharma and Mr.
Mayank Chauhan, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **04.12.2024**

1. By way of the present application, the applicant seeks regular bail in FIR No. 468/2019 registered at P.S. Shahabad Diary, Delhi for the offences punishable under Sections 365/302/201/404/34 IPC & Section 25/27 Arms Act.
2. Learned counsel for the applicant submits that the applicant is in custody since 21.10.2019 and all the material witnesses have been examined. He further submits that even as per the prosecution case, the deceased, namely *Nitin Gulati* and *Amit Hooda* succumbed to the injuries after receiving gun-shots that were stated to be fired by co-accused, *Rajnish @ Bantu* and *Naveen*. Moreover, it is submitted that the prosecution has not alleged the act of firing against the present applicant. He also submits that so far, 10 out of 35 witnesses have been examined including all material witnesses.



3. Learned APP, on the other hand, opposes the bail application. He contends that in the present case, a missing report was lodged on 15.10.2019 by one *Jaideep*, brother of deceased *Amit Hooda*, wherein he raised a suspicion regarding involvement of the accused, *Naveen*. He further submits that both the deceased went missing on 14.10.2019 and their bodies were discovered on 20.10.2019. On analysing the CDR of the co-accused *Naveen*, it was found that a day prior to filing of the missing report, co-accused *Naveen* was in constant touch with the present applicant. On being apprehended, the present applicant led to the recovery of wallet of the deceased *Amit* alongwith his identity documents/identity cards as well as two empty cartridges from the spot of the incident/near the canal. He, on instructions, also submits that as per the ballistic report, though the empty cartridges which were recovered at the instance of the applicant, matched the guns which were recovered from the co-accused persons, however, no opinion with respect to matching of the cartridges with the bullet led recovered from the body of the deceased is present. Lastly, it is submitted that the role of firing the gun-shot is attributed to the co-accused persons and not to the present applicant, however, the present applicant was statedly present at the spot of the incident.

4. I have heard learned counsels for the parties.

5. Indisputably, the role of firing the gun shot is attributed to the co-accused persons. The only material cited against the present applicant is of being in touch with the co-accused and the recovery of deceased *Amit*'s wallet and two empty cartridges.

6. At this stage, learned counsel for the applicant has claimed that the recovery of the said cartridges is from an open place and thus, doubtful. He



also submits that no material has been pointed out which indicates that the said empty cartridges in any manner matched with the bullet led recovered from the bodies of the deceased.

7. Considering the totality of the facts and circumstances, including the fact that all the material witnesses stand examined and that the present applicant is statedly not involved in any other case, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty J.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case any change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

8. The bail application is disposed of in the above terms.

9. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.



10. Copy of the order be uploaded on the website forthwith.
11. Needless to state that this Court has not expressed any opinion on the merits of the case and has made the observations only with regard to present bail application and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

DECEMBER 04, 2024/ssc