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

+ **BAIL APPLN. 4227/2023**

VISHAL @ DADHI

..... Petitioner

Through: Mr. Sushil Kumar Sharma, Mr.
Virender Kumar, Mr. Abhinav and
Mr. Kshitij Vedwal, Advs.

versus

STATE GNCTD

..... Respondent

Through: Mr. Aashneet Singh, APP for State

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

11.01.2024

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1. The present petition has been filed seeking regular bail in connection with FIR No. 617/2023 under Sections 307/34 IPC registered at Police Station Okhla.
2. The case of the prosecution is that there was a scuffle between the victim and three accused persons, namely, Badal @ Bunty, Sunil and the present petitioner i.e. Vishal @ Dadhi. The co-accused Badal @ Bunty had given a stab injury to the victim while the present petitioner had held the hands of the victim and the co-accused Sunil tried to choke the victim from his neck.
3. The learned counsel for the petitioner submits that co-accused Sunil has already been granted protection by way of interim anticipatory bail.
4. He further submits that the antecedents of the present petitioner are clean and the investigation is also complete, therefore, no purpose will be served in keeping the petitioner behind the bars. He, therefore, urges the Court to enlarge the petitioner on bail.
5. *Per contra*, the learned APP for the State has argued on the lines of



the status report. He has also referred to the statement of the victim Amit recorded under Section 161 CrPC, from the police file.

6. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State.

7. A perusal of the statement of the injured recorded under Section 161 CrPC shows that victim Amit has stated that Vishal and Sunil had held the petitioner, thereafter the co-accused Badal @ Bunty had taken out a sharp edged weapon from his pant and gave a stab injury to him. There is nothing on record to suggest that the petitioner was aware that the co-accused was carrying a sharp edged weapon in his pant or that he will give a stab injury to victim. It is also not the case of the prosecution that the petitioner exhorted to the co accused Badal @ Bundy to stab the victim. Therefore, in the absence of material, there remains a doubt as to whether the petitioner was sharing a common intention with the co-accused Badal @ Bunty.

8. It appears from the statement of the victim that the only role attributed to the present petitioner is that he had held his hands. Almost similar role has also been attributed to co-accused Sunil who has already been granted interim protection by this Court.

9. On a query put by the Court, the learned APP for the State, on instructions from the IO, who is present in Court, fairly states that the present petitioner does not have a criminal record.

10. It is not in dispute that the investigation is complete and the custody of the petitioner is no more required. It is also not the case of the prosecution that the petitioner is a flight risk.

11. Even otherwise the petitioner is in custody since 05.09.2023 and he



cannot be kept behind the bars to await the outcome of the trial, the conclusion of which is likely to take long time regard being had to the fact that the matter has not yet been committed to the court of sessions.

12. Considering the aforesaid circumstances, I am of the view that the petitioner is entitled to grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a Personal Bond in the sum of Rs. 25,000/- with one surety of like amount, subject to the satisfaction of the Trial Court/Duty Magistrate/CMM, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide his permanent address, as well as, his mobile number to the IO concerned. The mobile number shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the witnesses.

13. The petition stands disposed of.

14. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.

15. Order *dasti* under signatures of the Court Master.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 11, 2024/N.S. ASWAL