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

+ **BAIL APPLN. 3275/2024 & CRL.M.A. 27330/2024**

LAEES @ HARISH

.....Petitioner

Through: Mr. Dinesh Kumar Sharma, Mr.
Dinesh Kumar Madesiya, Mr.
Shubham Mishra and Jai Subhash
Thakur, Advocates.

versus

THE STATE OF NCT OF DELHI A

.....Respondent

Through: Ms. Richa Dhawan, APP for the State
along with IO.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

02.12.2024

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1. The instant application under Section 439(i) of Code of Criminal Procedure, 1973 (hereinafter as the “Code”) [now under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”)] has been filed on behalf of the petitioner/applicant for regular bail in the case arising out of FIR bearing no. 497/2018 for the offences punishable under Section 302/34 of the Indian Penal Code, 1860 (hereinafter as the “IPC”) and Section 27 of the Arms Act, 1959 registered at Police Station- Shahbad Dairy, Delhi.

2. The brief facts of the case are that on 7th September, 2018, an information was received by the concerned police officials that a person opened fire, which injured one Mr. Gopal Mishra. The injured was



immediately taken to the BSA Hospital, however, was declared dead. Accordingly, the instant FIR was registered by the concerned police officials.

3. Learned counsel for the applicant submitted that the applicant is an innocent person and was falsely implicated in the instant case as no offence as alleged in the instant FIR was committed by him.

4. It is submitted that the applicant was assigned no role in the commission of the offence of killing the deceased person i.e., Mr. Gopal Mishra. Moreover, it is submitted that while the deceased was absconding, the main accused shot a fire towards the deceased, which inflicted injuries on him, thereby causing his death.

5. It is submitted that the wife of the deceased (PW-1) and Shri Bhupal Mishra (PW-3), who are the key witnesses in the instant case, have already been examined on 5th April, 2019 and 19th October, 2019, respectively. Moreover, there are several contradictions in the depositions of the witnesses, who have already been examined.

6. It is submitted that the applicant has been languishing in jail since 9th September, 2018 i.e., for a period of more than six years. Moreover, it is submitted that the trial would take a long period of time to conclude and hence, there is no fruitful purpose of keeping the applicant behind the bars.

7. It is further submitted that the applicant has been released on interim bail thrice and has never misused the liberty given by the Court concerned. It is submitted that the applicant, on all the earlier occasions, had duly surrendered before the concerned Jail Superintendent on the expiration date of his interim bail.

8. During the course of arguments, the learned counsel for the applicant



handed over the nominal roll dated 30th November, 2024 and a list of criminal cases registered against the applicant. It is submitted that upon perusal of the contents of the nominal roll and the said list, it can be made out that there is a discrepancy in the contents therein and hence, the said documents are unreliable.

9. Learned counsel for the applicant undertakes that the applicant shall abide by all the terms and conditions imposed upon him by this Court while granting him regular bail.

10. Therefore, in view of the foregoing submissions, it is prayed that the applicant may be released on bail.

11. *Per contra*, learned APP appearing on behalf of the State vehemently opposed the instant application submitting to the effect that the applicant is a habitual offender and is involved in several criminal cases for the commission of heinous offences. Moreover, the applicant was also certified as a Bad Character (BC) by the concerned Jail Superintendent.

12. It is submitted that 16 prosecution witnesses were examined and the depositions of the said witnesses are in support of the prosecution case, including the eye-witness i.e., Mr. Bhupal Mishra. Furthermore, it is submitted that all the material witnesses were already examined and only police witnesses are yet to be examined. Hence, it is submitted that the trial of the applicant would be concluded within nine months.

13. It is further submitted that there are no contradictions in the depositions of the witnesses who have already been examined. Moreover, as per the nominal roll, the applicant is involved in 19 criminal cases and hence, it is prayed that this Court may not release the applicant on regular bail.



14. Heard learned counsel for the parties and perused the record alongwith the nominal roll dated 30th November, 2024 filed by the Jail Superintendent, Central Jail No. 03, Tihar, New Delhi and a document consisting list of cases pending against the applicant, which are taken on record.

15. Before going into the facts of the instant case, it is pertinent to mention the case of ***P Chidambaram vs Central Bureau Of Investigation, AIR 2019 SC 5272***, wherein the Hon'ble Supreme Court listed out the factors to be taken into consideration while granting bail. However, it is pertinent to note that the said list is not exhaustive in nature. The relevant paragraph of the same is as follows-

“21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

[Vide Prahlad Singh Bhati v. State (NCT of Delhi) [Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280 : 2001 SCC (Cri) 674] .]”

16. Keeping the aforesaid case law in mind and advertng to the instant



case, it is observed in the Status Report that the applicant was arrested on 9th September, 2018 and during the course of interrogation, he stated that he, along with a co-accused namely Sanjay, planned to murder the deceased because he objected to sell liquor illegally.

17. Moreover, upon perusal of the nominal roll as well as the list of cases against the applicant placed before this Court, it is observed that there are 19 cases registered against the applicant and out of which three cases are under the Delhi Excise Act, 2009 and four cases are under the Arms Act, 1959, thereby, showing his alleged involvement in the selling of liquor illegally and illegal use of firearms. The said details are also categorically mentioned in paragraph no. 6 of the Status Report filed on behalf of the State, which are as follows:

S.No	FIR No.	U/s	P.S.
1	277/03	323/341/325/34 IPC	Bawana
2	221/05	307/34 IPC	Bawana
3	52/10	354/506 IPC	S.B.Dairy
4	146/10	326 IPC	S.B.Dairy
5	226/10	25 Arms Act	K.N.K.Marg
6	230/10	379 IPC/356 IPC	S. Rohini
7	220/10	356/379/34 IPC	K.N.K. Marg
8	232/11	324,34 IPC	S.B.Dairy
9	210/12	341.34 IPC	S.B.Dairy
10	160/10	356/379/34 IPC	S. Rohini
11	437/12	323/341/34 IPC	S.B.Dairy



12	577/13	452/308/34 IPC	S.B.Dairy
13	358/14	452/323/34 IPC	S.B.Dairy
14	440/14	336/34 IPC & 25/27 Arms Act	S.B.Dairy
15	956/15	33 Excise Act	S.B.Dairy
16	267/15	451/336/506/34 IPC & 27 Arms Act	S.B.Dairy
17	278/17	33 Excise Act	S.B.Dairy
18	677/18	33 Excise Act	S.B.Dairy
19	497/18	302 IPC & 27 Arms	S.B.Dairy

18. Furthermore, it is mentioned in the Status Report that 16 out of 25 witnesses were already examined, who have deposed in support of the prosecution case.

19. Therefore, given that the applicant has 19 cases registered him and his statement recorded during the course of interrogation regarding the murder of the deceased, alongwith the fact that there are three cases under Delhi Excise Act, 2009 registered against him, this Court is of the view that if the applicant is released on bail, there is a high possibility of committing the same offence and jump the bail. Moreover, given the history of cases registered against him and the gravity of offences charged against him, there are chances of him absconding from the trial and tampering with the evidence. It further indicates that the applicant does not have clean antecedents and is a habitual offender, thereby compromising the veracity of the trial if he is enlarged on bail.

20. In light of the foregoing discussions and the law laid down by the Hon'ble Supreme Court, this Court is not inclined to grant regular bail to the applicant.

21. Accordingly, the instant application, being devoid of any merit, is



dismissed along with the other pending applications, if any.

22. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of granting regular bail to the applicant, which shall not be construed as an expression of observations on the merits of the case.

CHANDRA DHARI SINGH, J

DECEMBER 2, 2024

Rk/mk/ryp

[Click here to check corrigendum, if any](#)