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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3312/2024

AMAN DABAS ALIAS SUKHA

.....Applicant

Through: Mr. Sunil Rai and Mr.
Sunil Sharma, Advs.

versus

STATE NCT OF DELHI THROUGH SHORespondent

Through: Mr. Ajay Vikram Singh,
APP for the State with SI
Pravin Singh, PS
Kanjhawala.
Victim in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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07.10.2024

CRL.M.A. 27658/2024 (*exemption from filing certified copies of
orders / annexures*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking regular bail in FIR No. 46/2024 dated 01.02.2024, registered at Police Station Kanjhawala, for offences under Section 307 of the Indian Penal Code, 1860 ('**IPC**') and Sections 25/27 of the Arms Act, 1959.
4. It is the case of the prosecution that the victim and the applicant were present at a function at Lambu Farm, House, Ladpur, Delhi. It is alleged that the applicant fired two rounds in the air, and thereafter, shot towards the victim. It is alleged that the victim sustained a gun shot injury on his leg.
5. The learned counsel for the applicant submits that it is an admitted case that the victim got injured during the firing at the time of marriage procession.
6. He submits that the applicant has been falsely implicated in the present case and he is not the one who had fired the gun.

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He submits that the victim has not identified the applicant in his statement under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC').

7. He submits that even so, the celebratory firing took place at a marriage and no motive can be assigned to the applicant that he had any intention of injuring or threatening the victim.

8. On instructions, he further submits that since the victim had been injured, a sum of ₹50,000/- would be paid as a compensation to the victim.

9. The victim, who is present in person in Court today, states that he is satisfied with the compensation.

10. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant on account of the gravity of the alleged offences.

11. I have heard the learned counsel and perused the record.

12. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

13. The present case was registered in relation to a gun shot injury suffered by the victim.

14. It is argued that the applicant had not fired the gun shot and even so, the incident admittedly took place during a marriage procession where shots were being fired in the air. It is argued that in such circumstances, the offence under Section 307 of the



IPC cannot be made out.

15. It is an admitted case that the victim is not known to the applicant. The statement of the victim under Section 164 of the CrPC has also been recorded wherein he has not identified the applicant as the assailant. It is also relevant to note that the injury was caused on the leg of the victim. In view of the above, at this stage, *prima facie*, there is merit in the arguments raised by the applicant and doubt is created in relation to the involvement of the applicant in the commission of the offence. *Prima facie*, in the absence of motive and considering the nature of the injury, the offence under Section 307 of the IPC does not seem to be made out in the present case.

16. The applicant was arrested on 06.02.2024. The investigation is complete and the charge sheet has already been filed in the present case. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

17. In such circumstances, no purpose would be served by keeping the applicant in further custody.

18. The applicant is therefore, directed to be released on bail on him furnishing a personal bond for a sum of ₹20,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- i. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;



- ii. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- iii. The applicant shall appear before the learned Trial Court as and when directed;
- iv. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- v. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

19. As undertaken on behalf of the applicant, the applicant is directed to pay a sum of ₹50,000/- to the victim within a period of two weeks from the date of his release.

20. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

22. The bail application is allowed in the aforementioned terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

OCTOBER 7, 2024 / 'KDK'