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

+ **BAIL APPLN. 3439/2024**

MOHD SAAD

.....Petitioner

Through: Mohd.Nasir and Mohd. Tabrez,
Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr.Mukesh Kumar, APP for the State
alongwith SI Bijender Singh, P.S.-
Jama Masjid

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

12.11.2024

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1. The present application has been filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 on behalf of the applicant seeking bail in FIR No.488/2023, registered at Police Station Jama Masjid, for the offences punishable under Sections 307/34 of the Indian Penal Code, 1860 (hereinafter "IPC") & for offences under Sections 25/27 Arms Act, 1959 (hereinafter "Arms Act").
2. Learned counsel appearing on behalf of the applicant submitted that the applicant is in custody since 22.11.2023. It is submitted that investigation is complete and chargesheet has been filed. It is further submitted that charge has yet not been framed and therefore, the trial may take some time to be concluded.



3. Learned APP for the State has opposed the instant bail application and submitted that allegedly the accused-applicant has used the fire arm. It is submitted that though, initially, the nature of the injury was given as simple, however, afterwards it was found to be grievous. It is further stated that earlier also, the applicant was involved for offences punishable under Sections 25/27/54/59 of the Arms Act.
4. I have considered the submissions made by learned counsel for the parties. The applicant is in judicial custody since 22.11.2023. As per the MLC, though the nature of the injuries has been stated grievous on re-examination. It is a matter of record that the injured was discharged on the same date. Investigation is complete, however, charges have not been framed.
5. The criteria for grant of bail in heinous offences are very well settled. The consideration to be taken into account while grant of regular bail are the nature and gravity of the respondent's accusations, possibility of the Applicant to flee from justice, the possibility of threatening and intimidating the witnesses and other circumstances. However, it is a settled rule that the Court at the stage of the bail cannot hold mini trials and has to see only the prima facie case as produced by the prosecution. The personal liberty of an individual is a paramount consideration for any court while dealing with application for bail. The custody during the period of trial or investigation cannot be continued as a punishment.
6. The speedy trial in the present case does not seem a possibility and keeping the applicant in further incarceration would cause deprivation of his right to legal defence. The object of jail is to secure the accused



person's appearance during the trial. The object is neither punitive nor preventive, and the deprivation of liberty is considered a punishment.

7. The applicant cannot be made to spend the entire period of trial in custody especially when the trial was likely to take a considerable time. Similar view has been taken by the Apex Court in **Union of India v. K.A. Najeeb** (2021) 3 SCC 713.
8. In view of the facts and circumstances, without making any remarks on the merits of the case, the applicant is granted bail on the applicant furnishing a personal bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the concerned learned Trial Court and subject to the verification of his address and also subject to the following further conditions:
 - a) the Petitioner shall appear before the Investigating Officer/trial court as and when required;
 - b) the Petitioner shall under no circumstances leave the country without prior permission of the Court concerned;
 - c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - d) the Petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;
 - e) In case of a change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.



9. With the above directions, the application is disposed of. It is made clear that nothing stated in this order shall tantamount to be an expression of any kind or opinion on merits of the case.
10. A copy of this order be sent to concerned Jail Superintendent for compliance.

DINESH KUMAR SHARMA, J

NOVEMBER 11, 2024
dy/ht..