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

+ **BAIL APPLN. 3457/2024**

YOGESH @ BABU @ YOGI

.....Petitioner

Through: Mr. Sunil Dalal, Sr. Advocate with
Mr. Rahul Sand, Mr. Akash Gupta,
Mr. Nikhil Beniwal and Mr. Ankit
Rana, Advocates.

versus

THE STATE (GOVT. OF NCT, DELHI)

.....Respondent

Through: Mr. Laksh Khanna, APP for State
with Inspector Manmeet Singh PS
Khyala, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

21.10.2024

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1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 0912/2021 registered under Sections 302/147/148/149/34 IPC at Police Station Khyala, Delhi.

2. Learned Senior Counsel for the applicant states that the applicant has remained in custody since 31.01.2023 and though the applicant was initially declared a proclaimed offender on 27.05.2022, he was subsequently arrested on 31.01.2023 whereafter he was also released on interim bail on two occasions, a concession which he did not misuse.

On merits, it is stated that prosecution has cited as many as four eye witnesses and all of whom have now been examined. However, none of the eye witnesses have supported the case of the prosecution. In fact, the CCTV footage which has been placed on record was also played during the course



of the proceedings before the Trial Court, however, even then the eye witnesses did not identify the present applicant. It is further stated that all the material witnesses stand examined. Moreover, the incident dated 01.11.2021 occurred at about 08:45 PM when the deceased along with others had come outside the office of one of the co-accused namely *Sachin Manchanda* and they were carrying sticks, stones and guns and also fired gunshots at the accused persons in which *Sachin Manchanda* and *Fateh Kumar* also received gunshot injuries and a cross FIR being FIR No.911/2021 was also registered under Sections 307/34 and 25/27 Arms Act at PS Khyala, Delhi against the complainant and others. He thus states that it was the deceased and others who were the aggressors as the incident had occurred outside the office premises of the co-accused.

3. Learned APP has vehemently opposed the bail application and it is stated that the CCTV footage of the incident clearly shows the applicant beating the deceased with an iron rod. He further submits that the beatings continued over a considerable period of time and the cause of death as per the port-mortem report has been opined to be shock as a result of multiple extensive bruises and fractured bones associated with head injury. He however concedes that the eye witnesses stand examined, however, they have not supported the case of the prosecution

4. A bare reading of the facts placed before the Court would indicate that the incident occurred in which the deceased along with the others are statedly the aggressors as they are the ones who came outside the office of the co-accused. Indisputably, a gun has been recovered at the spot of the incident. The accused received gunshot injuries. The site plan as well as the articles seized from the spot indicates seizure of empty as well as live



cartridges. However, there is no allegation of accused persons having used the gun.

5. Considering the totality of the facts and circumstance and the further fact that all the eye-witnesses stand examined, who have not supported the case of the prosecution, 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 of 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.

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

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

8. Copy of the order be uploaded on the website forthwith.

9. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to



present bail applicant 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

OCTOBER 21, 2024/rd