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

+ **BAIL APPLN. 4020/2024**

ANSH PANDEY

.....Applicant

Through: **Mr. Parveen Kumar, Advocate.**

versus

STATE NCT OF DELHI THROUGH SHO PS BEGUMPUR

.....Respondent

Through: **Mr. Yudhvir Singh Chauhan, APP for
the State with SI Anoop, PS-
Begumpur.**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

12.12.2024

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1. The instant bail application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ("BNSS" hereinafter) {earlier under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") has been filed on behalf of the applicant seeking grant of bail in FIR bearing No.417/2024 registered at Police Station Bengumpur, Delhi for offences punishable under Sections 109(1)/115/126/3(5) of the Bharatiya Nyaya Sanhita (hereinafter "BNS") and Section 25/27 of the Arms Act, 1959.

2. The brief facts of the case are that the FIR in question was registered on the statement of the complainant i.e., Mr. Shivam, who has sustained bullet injury on the lower part of the body. In the complaint, it has been alleged that on 10th July, 2024, the complainant alongwith his friends was



going to his house on scooty and when they reached near the Police Station-Begumpur, they found that the accused persons including the applicant were present on bikes and scooty. It is further alleged that thereafter, the said accused persons chased the complainant and when the complainant reached near Kabutar Chowk, Sector-23, Rohini, Delhi, the accused persons hit their scooty and started beating them with *dandas* and *lathies*, pursuant to which the friends of the complainant escaped from the spot, however, complainant was allegedly caught by the accused persons.

3. Thereafter, the present applicant allegedly fired in the air from pistol and one of the accused persons, namely Mr. Sagar Malik, threatened to kill the complainant. It is further alleged that the said co-accused Mr. Sagar Malik handed a pistol to another co-accused Mr. Harsh Bhardwaj, who fired at the complainant due to which he suffered firearm injury, and thereafter, the instant FIR was filed, pursuant to which the applicant was arrested on 13th July, 2024. Thereafter, the learned ASJ on 28th October, 2024 dismissed the bail application filed by the applicant. Hence, the present application has been filed before this Court.

4. Learned Counsel appearing on behalf of the applicant submitted that a plain reading of the FIR shows that no specific role has been assigned to the applicant in causing the injury that was sustained by the complainant, which is alleged to have been caused by the co-accused, namely Mr. Harsh Bhardwaj.

5. It is submitted that the allegation against the present applicant is that he fired in the air and it is an admitted fact that due to the said firing, no injury was sustained by the complainant. It is further submitted that the injuries were sustained by the complainant by firearm which was fired by a



co-accused Mr. Harsh Bhardwaj.

6. It is submitted that the applicant was arrested on 13th July, 2024 and he has been languishing in jail for about five months. It is further submitted that there is no recovery of any weapon from the applicant or at his instance and that the investigation in the present case *qua* applicant has been completed and the chargesheet has been filed.

7. It is submitted that the applicant is 20 years of age and is currently a student of 12th grade and is a permanent resident of Delhi. It is further submitted that the applicant is not a flight risk and that the applicant has deep roots in the society. Hence, it is prayed that the applicant may be released on bail.

8. Learned counsel for the applicant fairly conceded that the applicant has two previous involvements in criminal cases and in those cases, he is presently enlarged on bail. On instructions, learned counsel undertakes that the applicant shall abide by any condition imposed by this Court while granting bail. It is also undertaken that the applicant shall not try to influence any of the witnesses or attempt to tamper with the evidence.

9. *Per Contra*, learned APP for the State vehemently opposed the bail application and submitted that the applicant alongwith other co-accused persons chased the complainant in order to kill him and it is with that intention that the co-accused fired at the complainant.

10. It is submitted that a motorcycle which was used in the commission of the offence was recovered at the instance of the applicant. It is further submitted that the applicant is a habitual offender and is involved in two other cases, and therefore, he is not entitled to any concession of bail as he may influence the conduct of trial if he is enlarged on the bail.



11. However, the learned APP fairly conceded that the complainant has not sustained any injury from the fire made by the applicant. It is also conceded that the pistol from which the firing was done in the air is not recovered.

12. Heard learned counsel for the parties and perused the materials placed on record.

13. It is an admitted fact that applicant is 20 years of age and is a student of 12th grade. It is also not in dispute that the applicant has not caused any bullet injury to the complainant. The weapon which was used in the commission of the said offence has not been recovered yet from the applicant. Further, as per the MLC, the injury sustained by the complaint was simple in nature.

14. Keeping in view the role assigned to the applicant in the commission of the said offence, the fact that no recovery of the weapon of offence is made from him or at his instance, as well as the age of the applicant, this Court is inclined to allow the instant petition seeking regular bail. It is accordingly directed that the applicant be released on bail on his furnishing a bail bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties of like amount to the satisfaction of the Court concerned subject to the conditions as follows:-

- (a) The applicant shall under no circumstances leave India without prior permission of the Court concerned;
- (b) The applicant shall appear before the Court concerned as and when required;
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts



of the case;

(d) The applicant shall provide his mobile number(s) and keep it operational at all times;

(e) The applicant shall commit no offence whatsoever during the period he is on bail;

(f) In case of change of residential address and/or mobile number, the same shall be intimated to the Court concerned by way of an affidavit.

10. Accordingly, the petition stands disposed of.

11. It is made clear that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not be construed as an expression of final observation in the proceedings pending before the Trial Court.

12. Copy of this order be sent to the Jail Superintendent for compliance.

CHANDRA DHARI SINGH, J

DECEMBER 12, 2024

NA/st

Click here to check corrigendum, if any