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

+ **BAIL APPLN. 400/2025**

SANJU@TENDUA

.....Petitioner

Through: Mr.Vivek Bhati, Advocate

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for
the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

12.03.2025

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1. By way of instant application, the applicant seeks grant of regular bail in case arising out of FIR No. 954/2023, registered at Police Station, Mahendra Park, South-East, New Delhi, for the offence punishable under Section 307 of Indian Penal Code, 1860 (hereafter '*IPC*') and Section 25/27 of Arms Act, 1959.

2. Briefly stated, facts of the present case are that in the midnight of 24.09.2023, the victim herein was attending a bhandara, when he had run and approached his friend Arif, and sat on the back of his scooty hurriedly. He had then asked him to follow the present accused/applicant who was rushing ahead on a scooty as he had threatened the victim with a gun. After a long chase, the accused/applicant had left his vehicle and started to run, and the victim had also run behind him in order to catch hold of him, and



that it when the accused/applicant had fired a gunshot at him. Thereafter, the victim had been admitted to BJRM Hospital and MLC No. 235968/2023 was prepared. The nature of the injury had been opined as dangerous, as the victim had suffered two puncture wounds (gunshot) on the back region of his body. Thereafter, a police official had reached BJRM Hospital and had collected the said MLC. Consequently, another police official had given a complaint No. 2365/NW and a statement tendered by Arif, a friend of the injured/victim, leading to the registration of present FIR. On the same day, through a secret informer, the accused/applicant had been arrested. During the investigation, the police officials had recovered an empty shell of 7.56 mm from the spot of the incident and a pistol with three live cartridges was recovered from the *jhuggi* of the present accused/applicant.

3. The learned counsel for the applicant argues that the applicant has been falsely implicated in the present case and he has no connection with the alleged offence. He submits that the name of the accused applicant is not mentioned in the FIR, and despite that, he has already spent 01 year and 6 months in judicial custody since the time of his arrest. Furthermore, the forensic evidence (FSL report) does not support the prosecution's case as the CCTV footage of the spot, that was collected by the police, does not capture the accused/applicant. He further draws the attention of this Court to the fact that both the complainant and the victim were unable to identify the applicant during the Test Identification Parade. The learned counsel argues that, the entire case is based on circumstantial evidence, and there is no eyewitness who had seen the applicant herein with the injured. In such circumstances, keeping the applicant in custody amounts to punitive incarceration, which is against the principles of criminal jurisprudence and



the right to liberty. Thus, on these grounds, it is prayed that the applicant be granted regular bail.

4. The learned APP for the State, on the other hand, contends that the prosecution has gathered strong circumstantial evidence such as the recovery of the a pistol and three live cartridges from the applicant's *jhuggi*, which links the applicant to the commission of offence and the mere absence of eyewitnesses does not weaken the prosecution's case, as circumstantial evidence, if credible, is sufficient to convict an accused. He further argues that the injury was on the back region of the victim's body, which is considered a vital body part. Furthermore, the CCTV footage supports the case of prosecution. He also submits that the FSL Report has confirmed that the weapon that was recovered from the instance of the accused/applicant was in working condition and the empty cartridge and the tested cartridge were found identical. Therefore, on these grounds, it is prayed that the present bail application be dismissed.

5. The allegations against the applicant/accused are that he threatened the victim and then fired from his gun at him in an attempt to murder him.

6. This Court has heard arguments addressed on behalf of both the parties and has perused the material available on record.

7. After hearing the arguments and going through the case file, this Court has observed that both the complainant and the victim were unable to identify the accused during the Test Identification Parade which negates the direct involvement of the accused in the alleged offence. Furthermore, there were no eyewitnesses who could corroborate the claims made by the complainant or victim. The CCTV footage, which had been examined, did not capture any image or presence of the accused at the relevant time or



location of the incident. In light of these factors, and the absence of substantial evidence directly linking the accused to the crime, this court finds it difficult to establish a strong case against the accused.

8. The Court, after reviewing the evidence presented, acknowledges that while the back region is a vital part of the body and its injury could have significant implications, it is not corroborated by any direct or circumstantial evidence that conclusively establishes that the accused/applicant was responsible for firing the said gunshot in the absence of compelling evidence linking the accused/applicant to the act of firing the gunshot, this Court finds that the applicant has not been shown to be directly implicated in the commission of the offence at this stage. Therefore, in the light of lack of sufficient proof of the accused's involvement, this Court is inclined to grant bail to the accused.

9. Therefore, considering the overall facts and circumstances of the case, including the period of custody undergone by the applicant, the fact that no recovery was effected from him, and the CCTV footage, which does not reflect the commission of offence by the applicant, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not leave the country without prior permission of the concerned Trial Court.
- ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.



iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court as well as IO/SHO.

iv) The applicant shall regularly appear before the learned Trial Court.

10. Accordingly, the present application stands disposed of.

11. Nothing expressed herein above shall tantamount to an expression of opinion on the merits of the case.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 12, 2025/vc

Click here to check corrigendum, if any