



2025:DHC:2553



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

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Judgment reserved on: 08.04.2025
Judgment pronounced on: 15.04.2025

+ BAIL APPLN. 2245/2024

PARTH PANDIT@PARTH BAJPAI

.....Petitioner

Through: Mr. Sarthak Maggon and Mr.
Raunak Parmar, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP
with SI Sargam Bhardwaj, PS
Adarsh Nagar.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J.

1. By way of the present petition under Section 439 read with Section 482 of the Code of Criminal Procedure Code, 1973 (CrPC), the petitioner seeks grant of Regular Bail in FIR No. 358/2019 dated 21.10.2019 for the offence under Section 307 of the Indian Penal Code, 1860 (IPC) and Sections 25,27,54 and 59 of the Arms Act, 1959 (Arms Act) registered at Police Station Adarsh Nagar (subject FIR).

2. The case of the prosecution is that on 20.10.2019, upon receiving information, Sub-Inspector Ravi Kumar along with Assistant Sub-Inspector Ram Niwas reached the BJRM Hospital,



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Jahangirpuri, where an injured person namely Kailash was found admitted *vide* MLC No. 177197/19. The MLC recorded by the doctor had mentioned that “A/H/O *firearm injury around 9:40PM on 20.10.2019 at near Azadpur Mandi, as stated by the patient.....*” When inquired from the victim, he informed the police that he had been shot near Mushtaq Dhaba, TPT Centre, Azadpur, Delhi, however, he did not give a detailed statement due to severe pain. Subsequently, the Crime Team, North West District was called on the crime scene i.e, the aforesaid location, where an inspection was conducted. During an extensive search, one empty shell was found lying near the Dhaba, which was taken into possession of the police through Seizure Memo.

3. Based on the aforesaid facts, the subject FIR was registered. During the course of the investigation, the statement of the victim was recorded, wherein he stated that on 20.10.2019 at around 9:45 PM, he was sitting on a bench beside Mushtaq Dhaba when four men namely Sunny S/o Shiv Singh, Sachin S/o Munna Lal, Misham S/o Aaga Jaani and Parth Vajpai (petitioner in the present case) approached him. Parth and Misham had a country made pistol (katta) in their hands. Parth fired a shot in air, while Sunny held the victim/complainant. Misham began to frisk him and demanded that he hand over whatever money he had. The victim handed over the money to Sachin and tried to run away, meanwhile Parth shot him in his stomach. Thereafter, all the accused persons ran away.

4. Thereupon, during the further course of investigation, three accused persons Misham, Sachin and Sandeep were arrested on



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03.11.2019 and one country made pistol was recovered from the possession Misham. Subsequent thereto, another accused i.e, Parth was arrested on 30.11.2019. The other pistol used in the commission of the crime could not be recovered. Upon conclusion of the investigation, chargesheet was filed before the learned Trial Court and the matter is at the stage of recording of prosecution evidence.

5. The bail applications of the petitioner have been rejected by the learned Sessions Court on two prior occasions *vide* orders dated 01.03.2024 and 08.04.2024.

6. The learned counsel for the petitioner submitted that the petitioner was arrested one and a half month after the said incident and he has been falsely implicated in the present case by the concerned police stations. At that time he was on interim bail in another FIR bearing no. 762/2014 registered under Sections 365/302/201/120B of the IPC and 25/27/54/59 of the Arms Act. He submitted that the police exhibited its high handedness solely to ensure that the interim bail granted to the petitioner in the previous case would not be extended further, thus, falsely implicated the petitioner in the present case.

7. He further submitted that no recovery has been effected from the petitioner, despite allegations being made by the prosecution that the petitioner was in possession of a gun. In fact, the only recovery has been effected from the co-accused Misham.

8. The learned counsel for the petitioner submitted that there is no prior relationship of the petitioner either with the complainant/victim



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or with the other accused persons. He further submitted that the petitioner has been in custody since 2019 and has undergone a prolonged period of incarceration of about 5 years in the present case.

9. He submitted that the complainant/victim, in his deposition before the learned Trial Court on 04.03.2025, disowned his statement recorded under Section 161 of the Cr.P.C. dated 22.10.2019. He not only declined to have made any such statement to the police, but further denied that the petitioner had fired upon him, causing gunshot injury to his abdomen.

10. He further submitted that other the co-accused persons namely, Sunny, Sachin and Misham have already been granted bail by the learned Sessions Court and this Court *vide* orders dated 24.12.2019, 07.07.2020 and 16.07.2020 respectively. In view of the above facts and circumstances, he prayed that the petitioner may be admitted to bail.

11. Conversely, Mr. Tarang Srivastava, learned APP submitted that the petitioner is a habitual offender and was involved in crime registered *vide* FIR no. 762/2014 registered under Section 365/302/201/120B of the IPC and 25/27 of the Arms Act at Police Station North Rohini, Delhi. In this case, he was convicted by the learned Sessions Court *vide* order dated 12.12.2023 and was sentenced to undergo imprisonment for life and a fine of Rs. 20,000/- for offence under Section 302 IPC and imprisonment for 5 years and a fine of Rs.



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10,000/- for offence under Section 201 IPC. He submits, the petitioner's sentence has been suspended in the said case.

12. He further submitted that the petitioner had committed the present offence while he was on interim bail in FIR No. 762/2014. Therefore, keeping in view of his antecedents and conduct, the learned APP prayed that the petitioner may not be granted bail.

13. No doubt allegations leveled against the petitioner are grave that while being on interim bail in a murder case, the petitioner again attempted to commit murder and that too fired a gunshot in the abdomen of the injured/victim.

14. However, main witness of the prosecution's case, who is the injured/victim himself, has not supported the prosecution's case. He appeared to have completely abandoned the prosecution's version. The learned APP could not put forth any other strong evidence against the petitioner. The Nominal Roll shows that the petitioner is in custody since 29.11.2019. His sentence in case registered *vide* FIR no. 762/2014 registered under Section 365/302/201/120B of the IPC and 25/27/54/59 of the Arms Act at Police Station North Rohini, Delhi has also been suspended by the Division Bench of this Court *vide* order dated 22.03.2024.

15. In totality of the circumstances, the petitioner is admitted to regular bail on furnishing a personal bond in the sum of Rs. 30,000/- with one surety in the like amount, to the satisfaction of learned Trial Court / CMM / Duty Magistrate, subject to the following conditions: -



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- i. The Petitioner shall not leave State of NCT of Delhi without prior permission of the learned Trial Court.
- ii. The Petitioner is directed to give all his mobile numbers to the Investigating Officer and keep it operational at all times.
- iii. The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other person acquainted with the facts of case. The Petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
- iv. The Petitioner shall report at the concerned Police Station on every Friday between 4:00 PM to 6:00 PM. The concerned officer shall release the Petitioner after recording his presence and after completion of all the necessary formalities.
- v. The Petitioner shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- vi. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for



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hearing.

16. Needless to state, any observation made hereinabove shall not tantamount to be an expression on the merits of the case before the learned Trial Court and has been made for the consideration of the present bail application alone in the prevailing circumstances.

17. Copy of the order be sent to the Jail Superintendent concerned for information and necessary compliance.

18. Accordingly, the petition, along with the pending application, is disposed of.

SHALINDER KAUR, J

APRIL 15, 2025/ab/sk

Click here to check corrigendum, if any