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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2509/2024**
FEROJUDDIN @ FEROF@ BHURAPetitioner

Through: Mr. Munindra Singh, Advocate.
Mr. Muddassir, Advocate.

versus

THE STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Mukesh Kumar, APP.
Inspector Madhurendra Kumar, P.S.
Bara Hindu Rao.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **06.02.2025**

1. The present application under Section 439 of the Code of Criminal Procedure, 1973¹ seeks regular bail in FIR No. 191/2021, dated 9th July, 2021, under Sections 302/307/120B/34 of the Indian Penal Code, 1860² & 25/27/54/59 of the Arms Act, 1959, registered at P.S. Bara Hindu Rao.

2. The case of the prosecution is as follows:

2.1. On 8th July, 2021, at about 9:15 PM, a group of persons stopped the car of the complainant, namely, Naeem Ahemad, and started quarrelling with him and his nephew, Mohd. Muneeb. However, they were overpowered by the complainant with the help of the passersby, and they managed to get away. After a few minutes, the attackers returned and fired gunshots,

¹ ['CrPC']

² ['IPC']



resulting in bullet injuries to two innocent passersby in the crowd. Both of the injured were taken to the hospital where they were declared as brought dead.

2.2. During the investigation, it was revealed that there was some dispute between Mohd. Muneeb, Ferojuddin, the Applicant herein, and co-accused Danish. Mohd. Muneeb had previously lodged a complaint against the construction carried out by the Applicant, Ferojuddin, and Mohd. Danish. The Applicant, Ferojuddin, in conspiracy with his father-in-law Mehtabuddin and Mohd. Danish, contacted Mohd. Muneeb by phone and threatened him to resolve the issue, or else face severe consequences. As the matter remained unresolved, Ferojuddin, who was in contact with co-accused Ravi Sharma and Shoaib through Anwar @ Hathela (allegedly running a racket from Tihar Jail), along with the other co-accused, gathered near the Masjid in front of Kishan Ganj Railway Station, consumed alcohol and conspired to kill Mohd. Muneeb. Thereafter, as per the plan, Rahul @ Charlie went to Sanjita Hospital to identify Muneeb. After identifying Muneeb, Rahul @ Charlie stopped his car and, along with Himanshu @ Rohan, Ravi Sharma, Shoaib, Satender, Banadik @ Sunny, and Sharafat, attacked Mohd. Muneeb, while Ferojuddin and Danish stood near the crime scene. Rahul @ Charlie fired shots with the intention to kill Mohd. Muneeb, however, two passersby died due to the bullet injuries. Thereafter, all the accused persons ran away from the spot.

2.3. A pistol and two live cartridges were later recovered from the possession of accused Banadik @ Sunny. A mobile phone was also seized.

2.4. During the investigation, it was found that Banadik @ Sunny made 158 calls to co-accused Satender between 5th June, 2021 and 8th July, 2021,



around 66 calls to Shoaib starting from 11th June, 2021, and 2 calls to co-accused Sharafat from 9th July, 2021. These communications indicate that there was a conspiracy among the accused persons.

2.5. There is also a voice message between Sohaib and Ferojuddin. The ballistic report with respect to the weapon recovered from Rahul @ Charlie has been received as positive.

2.6. Based on the above, charge-sheet has also been filed.

3. In the above background, the Applicant, Ferojuddin, who is present in Court, submits as follows:

3.1. The prosecution's claim of conspiracy to assassinate Mohd. Muneeb is completely unfounded and implausible. The Applicant has not been named in the FIR and there is no proof of his presence on the crime scene.

3.2 There is no dispute over any property between the Applicant and the complainant or Mohd. Muneeb, nor was there any enmity between them at any time. The Applicant was only working under Danish and has been implicated solely for that reason.

3.3. The Applicant has no prior criminal record. He has two children, a daughter aged 5 years and a son aged 3.5 years, and is the sole breadwinner for his family. He has been in judicial custody since 9th July, 2021. Due to the Applicant being in judicial custody, his children are being deprived of proper care and support.

3.4. The co-accused Danish and Benadik @Sunny have already been granted bail by this Court on 28th March, 2024 and the Applicant is entitled to bail on the grounds of parity.³

4. Mr. Mukesh Kumar, APP for State, strongly opposes the bail



application. He submits that there is sufficient material on record to implicate the Applicant. To get rid of Md. Muneeb, the Applicant contacted Anwar Hatela, Ravi Sharma and Shoaib and hatched conspiracy with his employer Mohd. Danish. During investigation it was revealed that the accused Ferojuddin @ Feroj was in constant touch with co-accused Ravi, Shoaib, Md. Danish and Anwar Hatela through this mobile phone No. 9711664214. This sim number was found to be registered in the name of Saba Praveen D/o Qutubuddin (Sister of Applicant). In the mobile phone of Ferojuddin, one mobile number 8826369219 was found saved in the name of Anwar Hatela- the person who in judicial custody at the time of commission of crime and had provided the manpower to the Applicant for the commission of this offence. On the date and time of offence i.e. 08th July, 2021, the location of mobile number of Ferojuddin is at place of offence. Mr. Kumar further contends that upon analyzing the call details of the Applicant, Ferojuddin @ Feroj (Mobile No. 9711664214), it was found that he made 30 calls to accused Anwar Hatela, 14 calls to accused Ravi Sharma, 54 calls to accused Shoaib, 300 calls to accused Danish, and 44 calls to accused Mehtabuddin during the commission of this offence. In view of the above, he strongly opposes the bail application of the Applicant.

5. The Court has considered the aforementioned contentions. The Applicant has been in judicial custody since 9th July, 2021. The case of the prosecution against the Applicant primarily hinges on Call Detail Records.⁴ The relevance of the CDRs to bring home the accusations against the Applicant, shall be considered by the Trial Court once the evidence is completed. The

³ Bail Appln. No 621/2022

⁴ "CDR"



chargesheet has been filed and the charges have been framed. The trial has advanced and the public witnesses have already been examined and discharged. In fact, the order dated 23rd December, 2024, specifically notes the submission of the APP for state, that the material witnesses have been examined by the Trial Court and they have not supported the case of prosecution. In such circumstances, the Court finds no reason to prolong the incarceration of the Applicant. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁵ That apart, the other co-accused as noted above, have already been granted bail. The Applicant is thus entitled to be enlarged on bail on the grounds of parity.

6. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;

⁵ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- g. The Applicant shall report to the concerned PS on fourth Friday of every month;
- 7. In the event of there being any FIR/DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
- 8. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
- 9. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

FEBRUARY 6, 2025

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