



\$~2

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

+ **BAIL APPLN. 2511/2024**

AVNEESH

.....Petitioner

Through: Mr. Aditya Aggarwal and Ms. Pooja Roy, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for State with Inspector Govind Singh & SI Pankaj Kumar, PS Jyoti Nagar.
Mr. Hirein Sharma & Mr. Saurabh Goel, Advocates for complainant.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

04.03.2025

%

1. By way of the present application, the applicant is seeking regular bail in FIR No. 172/2019 dated 30.05.2019, registered at Police Station Jyoti Nagar, Delhi for offences punishable under Sections 302/307/34 of the Indian Penal Code, 1860 (hereafter 'IPC') and Section 25 and 27 of the Arms Act, 1959 (hereafter 'Arms Act').
2. Briefly stated, the facts of the present case are that on 29.05.2019 on receiving information that two boys had suffered gunshot injuries at main 20 futa road, near Axis Bank, Meet Nagar, Delhi, the police officials had reached the place of incident and had found two persons lying on the road, who were bleeding profusely. The police officials had also found some fired



bullets, 01 missed round, 02 empty cartridges and 01 live cartridge at the spot. A black Splendor motorcycle was also found lying on the road. The aforesaid two persons namely Aakash Verma and Govind Singh Bhati were declared 'brought-dead' upon arrival at the GTB Hospital. Thereafter, the present FIR had been registered.

3. During the course of investigation, the eye witness of the incident namely Pramod Kumar had specifically disclosed that he had seen the present applicant Avneesh along with his associates, carrying pistols and knives, and that he had fired several gunshots towards him and his friends, due to which his friend Govind had received gunshot injuries and died. He also disclosed that one another person (later identified as Aakash) had also received injuries in the said incident. The post-mortem of both the deceased persons was conducted, and 05 bullets were recovered from the body of deceased Govind Bhati and one bullet was recovered from the body of deceased Aakash Verma. After completion of the investigation, charge-sheet and supplementary charge-sheet under Section 302/307/34 of IPC and Section 25/27 of the Arms Act were filed against all the accused persons in the present case. As per Status Report, accused persons namely Aman, Anil @ Lala, Ankit, Ashu, Hemant and one CCL 'F' were arrested during investigation, whereas present applicant Avneesh had absconded and was later arrested on 22.08.2019.

4. The learned counsel appearing on behalf of the applicant argues that the applicant has been falsely implicated in the present case and that he has been in judicial custody for the last more than five years. It is also argued that the accused is not visible in the CCTV footage placed on record. It is further argued that the distance between the place of incident and area of



residence of the applicant is approximately 500 meters which reflects that the applicant lives in the same vicinity, and thus, the applicant's location may or may not be reflected as that of place of incident. It is contended that the applicant and co-accused Anil @Lala are acquaintances as they reside in same vicinity and an exchange of phone calls between them also does not reflect that the applicant and the said co-accused were in connivance or involved in the conspiracy of committing offence. Therefore, it is prayed that applicant be released on regular bail.

5. The learned APP appearing for the State, on the other hand, opposes the bail application and submits that the present case involves murder of two deceased/victims. It is submitted that during trial of the case, the complainant and other material witnesses have supported the prosecution's case and identified the applicant specifically. It is further submitted that there is a strong possibility that the applicant may abscond, tamper with evidence or influence witnesses, if released on bail, and therefore, it is prayed that the present bail application be dismissed.

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

7. In the present case, the allegations against the applicant herein are that he had fired gunshots towards the deceased persons, namely Govind Bhati and Akash Verma on the day of alleged incident i.e. 29.05.2019. It has also been alleged that the present applicant had arranged the weapons used in the commission of offence i.e. two pistols, three desi katta and knives. The post-mortem report in this case opines that five bullets were found in the body of deceased Govind Bhati, and one bullet was found in the body of deceased Akash Verma.



8. This Court has also perused the testimonies of the material witnesses. PW1 Pramod Kumar, i.e. one of the eye-witnesses of the incident has specifically deposed that on the day of incident, he had seen the present accused/applicant along with co-accused Anil and 4-5 other associates firing towards the victims, due to which the victims had suffered gunshot injuries and later succumbed to their injuries. During the course of trial, PW1 has also identified the present applicant.

9. Similarly, PW2 has deposed that on the day of incident, he had seen present applicant Avneesh and co-accused Anil firing upon the victims, whereas their associates were causing injuries to them through knives. PW2 had also identified the present applicant during the course of recording of his testimony.

10. It is also relevant to note that out of all the accused persons in this case, it was the present applicant Avneesh who had absconded during the course of investigation and proceedings under Section 82 of Cr.P.C. had been initiated against him. This Court's attention has also been drawn towards the previous involvement record of the present applicant, which reveals his involvement in four other criminal cases.

11. At this stage, 15 out of 39 prosecution witnesses having examined as yet and out of the material/eye witnesses so examined, except PW-4, other material/eye witnesses have largely supported the prosecution's case. However, some material witnesses are yet to be examined.

12. The Hon'ble Supreme Court in **Vijay Kumar v. Narendra & Ors.:** (2002) 9 SCC 364, held as under, with regard to grant of bail in offences like murder punishable under Section 302 of IPC:

"10. ...The principle is well settled that in considering the prayer for



bail in a case involving serious offences like murder, punishable under Section 302 IPC, the court should consider the relevant factors like the nature of the accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after the have been convicted for committing the serious offence of murder...".

13. In *X v. State of Rajasthan & anr: SLP (Crl) No. 13378/2024*, the Hon'ble Supreme Court has observed that ordinarily, once the trial commences and prosecution starts examining witnesses, the Court should be loath in granting bail to accused persons in serious offences like rape, murder, dacoity, etc.
14. In this regard, this Court is of the opinion that the evidence on record is sufficient to *prima facie* reflect the involvement of the present applicant in the commission of alleged offence.
15. Therefore, considering the overall facts and circumstances of the case, this Court finds no ground to grant regular bail to the present applicant.
16. Accordingly, the present bail application stands dismissed.
17. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.
18. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 4, 2025/zp

[Click here to check corrigendum, if any](#)