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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3086/2024**

VIVEK DABAS @ KALU

.....Petitioner

Through: Mr. N.S. Dalal, Mr. Kunal Narwal,
Ms. Jyoti Nambiar, Ms. Nidhi Dalal,
Ms. Rachana Dalal and Mr. Alok
Kumar, Advocates

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Aman Usman, APP for State with
SI Gourav Tyagi, PS Begumpur

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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27.02.2025

1. The present petition has been filed seeking regular bail in connection with FIR No. 417/2020 under Sections 302/120B/34 IPC and Sections 25/27 of the Arms Act registered at Police Station Begumpur, Delhi.
2. The present FIR came to be registered for the murder of deceased Bharat Solanki @ Yovin. In the present petition, petitioner along with three other co-accused were arraigned as accused persons.
3. Mr. N.S. Dalal, learned counsel appearing for the petitioner submits that the prosecution in the present case has cited four eye witnesses, namely –



Mr. Ramesh Bansal (PW-1), Ms. Simran Gupta (PW-2), Mr. Sachin Tyagi (PW-3) and Mr. Sumit Sehrawat (PW-4). He submits that all the said material witnesses have been examined and they have not supported the case of the prosecution.

4. He further submits that even the main accused, namely – Paramjeet @Cheeta has been granted bail by the learned Additional Sessions Judge-03, North-West, Rohini Courts, Delhi *vide* order dated 11.02.2025. Referring to the said order, he further submits that even the learned ASJ has recorded that the four eye witnesses who have been examined, have not supported the case of the prosecution on the aspect of identification of the accused persons. He, therefore, contends that the present petitioner may also be enlarged on bail.

5. *Per contra*, learned APP appearing for the State submits that the present petitioner cannot claim parity with co-accused Paramjeet @Cheeta since there are other cases registered against the present petitioner and further the recovery of the pistol was at the instance of present petitioner. He submits that the trial court *vide* order dated 30.01.2025 has even allowed the application of IO for face mapping on the basis of CCTV footage available on record for identification of the accused persons. He, therefore, urges that the present bail petition of the present petitioner may be dismissed.

6. I have heard the learned counsel appearing for the petitioner, as well as, learned APP for the State and have perused the record.

7. It is not in controversy that the prosecution has cited four eye witnesses and all of them have turned hostile on the aspect of identification of the accused persons.

8. In so far as face mapping is concerned, suffice to say that the same is a matter of trial. Further, a perusal of the order whereby face mapping was



permitted, shows that the said order was passed prior to grant of bail to co-accused Paramjeet @ Cheeta.

9. In so far as petitioner's involvement in other cases is concerned, the same will pale into insignificance since at this stage of considering petitioner's bail plea, the fact that the eye witnesses have not supported the case of the prosecution on the aspect of identity will enure to the benefit of the present petitioner. As regards the recovery of pistol is concerned, to be noted that the same is only a corroborative piece of evidence and the probative value of the same shall be considered by the learned trial court at an appropriate stage in light of the fact the eye witnesses have not supported the case of the prosecution on aspect of identity of the accused.

10. Considering the aforesaid facts in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/JMFC/Duty JM, further subject to the following conditions:

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.



c) Petitioner/applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses or any family members of the witnesses.

11. It is clarified nothing mentioned above shall be construed as expression of opinion on the merits of the case.
12. The application is disposed of.
13. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.
14. Order *dasti* under signatures of the Court Master.

FEBRUARY 27, 2025
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VIKAS MAHAJAN, J