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

+ **BAIL APPLN. 3596/2024**

ARVIND KUMAR

.....Petitioner

Through: Mr. Kartik Lohan, Mr. Akash
Baisoya, Mr. Aakash Gupta & Mr.
Gaurav Sharma, Advs.

versus

STATE GOVT. OF NCT OF DEHI

.....Respondent

Through: Mr. Aashneet Singh, APP with SI
Nitin Singh, ASI Sachin Singh, AR
SC/Crime.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

25.02.2025

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1. This is a petition seeking regular bail in FIR No. 0391/2018 under Section 307/174-A/34/120-B of IPC and 25/27 of Arms Act, registered at PS New Ashok Nagar/Crime Branch, Delhi.
2. As per the FIR, it is stated that the complainant was living with his maternal uncle – Chaman Bhati at Village Dabra, Gautam Budha Nagar. Chaman Bhati's brother-in-law Pankaj Nagar was murdered in the Village Chachola, PS Dankaur District, Gautam Budh Nagar (UP) in 2012, in which, it is stated that one Anil Dujana and Randeep Bhati were involved. The complainant is an eye-witness to the murder and both the cases are going on in Surajpur Court. As a result, the complainant has been receiving constant threats from the accused in those cases. It is further alleged that the complainant has repeatedly



been warned to withdraw the cases.

3. The complainant on 30.07.2018 at around 6:30 pm was coming back from his uncle's house in Gharauli to Mayur Vihar Phase-III on a scooty and as soon as he reached Main Road of Pocket A-3, two boys on splendor motorcycle arrived at the spot and one boy fired at the complainant and the bullet hit the complainant's stomach. Those two boys also chased the complainant while firing. Subsequently, the FIR was registered.
4. The petitioner was declared as 'proclaimed offender' and was arrested from Tamil Nadu. In police remand, there was a recovery of a semi-automatic pistol and 04 cartridges.
5. It is stated that the petitioner is a hired shooter and there was a bounty of Rs.50,000/- on him.
6. Mr. Lohan, learned counsel for the petitioner states that in the present case, the petitioner has been in custody since 02.05.2019 and as per the Nominal Roll, the petitioner has undergone 05 years 08 months 3 days. There are 07 FIRs against the petitioner and in all the FIRs, either the petitioner has been acquitted or granted bail.
7. Further, out of 49 witnesses, only 13 have been examined and the trial is not likely to conclude in the near future.
8. I have heard the learned counsel for the parties.
9. In the present case, even though the petitioner has been identified by the complainant, the fact remains that the petitioner is still an under trial prisoner.
10. The Hon'ble Supreme Court in ***Union of India v. K.A. Najeeb, (2021) 3 SCC 713*** has observed that if the Court is of the view that the trial is



not likely to be concluded in near future and the accused person has undergone substantial period of incarceration, the accused should be released on bail in order to protect the fundamental right of speedy trial of the accused which flows from Article 21.

11. In addition, the accused cannot be put in jail for an indefinite period.

The accused till the time is an undertrial prisoner, there is a presumption of innocence in his favour.

12. In the present case, the charges have been framed against the petitioner on 09.08.2019 and since then the prosecution evidence is going on. As of today, only 13 witnesses have been examined out of 49 witnesses and it does not seem that the trial will conclude in the near future.

13. As per the Nominal Roll dated 27.01.2025, the petitioner has undergone incarceration for 05 years 08 months 3 days. The petitioner is still an undertrial prisoner and there is a presumption of innocence in his favour. The petitioner has been granted interim bail once in the past and he surrendered in time.

14. With regard to 07 FIRs registered against the petitioner, as shown in the Nominal Roll, the petitioner has either been acquitted or granted bail in all of them.

15. For the said reasons, the present petition is allowed and the petitioner is directed to be released on bail subject to the following terms and conditions:-

- a. The petitioner shall furnish a personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand Only) each with 1 surety in the like amount, to the satisfaction of the



concerned trial court;

- b. The petitioner shall not leave the country without the permission of the concerned court and if the petitioner has a passport, he shall surrender the same to the concerned trial court;
- c. The petitioner shall furnish to the IO concerned the cell phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched on at all times;
- d. The petitioner will furnish his permanent address to the concerned IO and in case he changes his address, he will inform the IO concerned;
- e. The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
- f. The petitioner shall appear before the Trial Court on each and every date of hearing unless exempted. In case, there is any other FIR registered against the petitioner, the respondent will be at liberty to seek modification/variation of the order passed;
- g. The petitioner shall not communicate with, or come into contact with the complainant or any of the prosecution witnesses, or tamper with the evidence of the case.

16. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.

17. With these directions, the petition is disposed of in the aforesaid



terms and conditions.

JASMEET SINGH, J

FEBRUARY 25, 2025/pk

Click here to check corrigendum, if any