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

+ **BAIL APPLN. 3690/2024**

RAM KUMAR SHARMA

.....Petitioner

Through: Mr. Jayant Tewari, Ms. Sunaina
Valecha, Mr. Mehroon Nisha, Mr.
Anshum Verma, Ms. Pooja Rani, Ms.
Supriya Harsha and Mr. Abhishek
Gupta, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State
with Insp. Rajesh Kumar, Insp.
Manmohan Singh and ASI Om
Prakash.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

27.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application is the second application under Section 483 read with Section 528 of the BNSS seeking regular bail in case FIR No. 631/2022, under Section 302 of the IPC and Sections 25/27 of the Arms Act, registered at P.S. Mohan Garden.
3. Learned counsel appearing on behalf of the applicant submits that the previous bail application being BAIL APPLN. 2515/2024 was dismissed as withdrawn *vide* order dated 22.07.2024 passed by a Coordinate Bench of this Court.
4. The case of the prosecution as per the status report dated 05.12.2024 authored by Insp. Mukesh Antil, SHO Mohan Garden is as under:-



“1) It is submitted that a PCR call vide DD No. 48A Dated 16.11.2022 was received in the PS Mohan Garden regarding “CALLER BOL RAHA HAI YHA AK ADMI KO GOLIMARI DI JISKIYE KAR HOSPITAL GYE HAI JISNE GOLIMARI HAI USKO PAKAD RAKHA HAI M.N. 9891403966” and the same was marked to the ASI Om Prakash No. 82/DW for necessary action.

2) After receiving the PCR call ASI Om Prakash along with staff reached at the spot i.e. A-128, office of R. K. Builder, Near Atul Chowk, Bhagwati garden, Mohan Garden, Uttam Nagar, Delhi where after reaching at the spot it came to notice that injured has been taken to the nearby hospital and inside the office, a pool of blood was found lying on the ground and on the chair and at the place of incidence. Complainant Rajender Kumar S/o Shri Showpal Singh R/o H.No. 15, Amar Complex, Bhagwati Garden, Mohan Garden, Age-41 Years was present there and he handed over the accused person namely Ram Kumar Sharma S/o Shri Lt. Omkar Sharma R/o A-128, Bhagwati garden, Mohan Garden along with Desi Katta (country made pistol which was seized) to the IO.

3) Further at spot crime team was called and the inspection of the same was conducted. While conducting inspection at place of incidence, one more desi katta was recovered from the drawer of the table Ijdnng there (Same was seized). Further statement of Complainant Rajender Kumar was recorded who stated that three year ago, his friend namely Ram Kumar Gupta had landed a sum of Rs.25,00,000/- to one Ram Kumar Sharma and I was the guarantor in this deal. Further on 16/11/2022 deceased Ramkumar Gupta came to office of Ram kumar Sharma at A-128 R.K. Builders Near Atul Chowk, Mohan Garden to collect his money. Complainant Rajender kumar also called me and he reached the office of Ramkumar Sharma at about 2.30 PM. After some time both (deceased and accused) started arguing. The complainant and one Prashant Prashar, who was already present in the office tried to mediate between both. But Ram Kumar Sharma continued quarrel with Ramkumar Gupta and a scuffle broke out between both of them. During the scuffle. Ram Kumar Sharma took out one desi katta (country made pistol) from his right side of his pants and fired it aiming directly on to the face of Ram Kumar Gupta. Resultantly Ram Kumar Gupta fell down from the chair and a lot of blood started oozing out. The complainant asked Prashaint to take Ramkumar Gupta to the hospital and he caught hold of Ram Kumar Sharma from behind, with a country made pistol. Meanwhile, Ramkumar Gupta's son Rahul also reached and he took his father to



Tarak Hospital, Mohan Gaeden. Hence, prima facie an FIR vide FIR No. 631/22 U/s 307 IPC and 25/27 Arms Act was registered in PS Mohan Garden. Victim was also referred to Venketeshwar Hospital, Dwarka, Delhi.

4) During investigation on 17/11/2022 one DVR which was installed out side the house of Lalesh Rathore was seized, which shows the presence of witnesses, deceased and the applicant/accused on the scene of crime. On that day after interrogation and sufficient evidence against accused Ram Kumar Sharma above was arrested and two days police custody remand of accused Ram kumar Sharma was also obtained to investigation the source of weapon which was used in commission of the offence. During PC remand, accused Ram kumar Sharma disclosed that both the country made pistol alongwith the one which was used in the offence, were purchased from his village friend Amresh Tyagi @ Umesh Tyagi. In this regard suspect Amrish Tyagi @ Pintu Tyagi (kept in column No. 12 in the supplementary chargesheet) was interrogated, in connection with supply of country made pistol to accused Ram Kumar Sharma.

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6) During the course of investigation 24.22.2022 postmortem of deceased was got conducted in DDU Hospital vide PM No. 2036/22 and after postmortem exhibits handed were seized through on over to IO, by the Doctor and same As per postmortem report cause of death is shot injury. During seizure memo. septicemia associated with gun investigation all relevant exhibits were seized and deposited in FSL Rohini for expert opinion.

7) During investigation the statements of eye witnesses recorded by the IO and other witnesses are supporting the version of the complainant. As per bank statement of deceased Ram Kumar Gupta Rs. 15,00,000/- had been transferred to Ram Kumar through NEFT on 05/10/2020 and after that Rs. 17,10,000 were credited through RTGS by the accused Ram Kumar in the account of deceased. But Rahul Gupta son of deceased stated that the amount of Rs. 10 Lac had given in cash by his father to Ram Kumar Shrama.

8) Chargesheet and supplementary chargesheet in the present filed before the Ld. Sessions court and during trial case was only 06 witnesses have been examined so far and the next date of hearing is fixed for 21.12.2024.”

5. Learned counsel appearing on behalf of the applicant submits that the prime witness cited by the prosecution to support the case was PW-2, i.e.,



Prashant Prashar, who during his testimony before the learned Trial Court has not supported the case of the prosecution. It is submitted that the other witness, i.e., the complainant, namely, Rajender Kumar (PW-1) is not an eye-witness, his testimony is to the effect that when he heard a bang and came inside, he saw the deceased lying on a chair and eye-witness/PW-2 was present there and the present applicant was standing near the gate. It was further submitted that the applicant has been in custody since 17.11.2022 and all the material/public witnesses have been examined. It is further submitted that both the complainant as well as the eye-witness have also not supported the case of the prosecution with regard to the recovery of weapon from the applicant.

6. *Per contra*, learned APP for the State submits that the present applicant was apprehended at the spot alongwith country-made pistol which was used to shoot at the deceased. It is submitted that there was motive on the part of the applicant to commit the crime as there were monetary issues between the deceased and the applicant. It is the case of the prosecution that the applicant had to return remaining sum of Rs. 10 lakhs which was the bone of contention between them. It is further submitted that the presence of the applicant has been established on the spot by both PW-1 and PW-2 as well as by the son of the deceased/PW-4.

7. Heard learned counsel for the parties and perused the record.

8. The case of the prosecution on the statement given by PW-2 was that the deceased had come to the office of the applicant to discuss their monetary issue during which there was an altercation between them and the applicant took out a country-made pistol from the back of his pants and fired on the deceased. It is also the case of the prosecution that the applicant was



apprehended at the spot alongwith country-made pistol which was seized from him. The witness of the seizure memo was PW-1 (Complainant). This Court has gone through the testimonies of PW-1 and 2. PW-1 who is the complainant in the present FIR did not support the case of the prosecution with regard to the recovery of country-made pistol. The PW-2 who was the eye-witness with regard to the fact that the applicant had taken out the country-made pistol and shot the deceased did not support the case of the prosecution as well. PW-2 in fact has stated that there was an altercation between the applicant and the deceased and during the same the deceased and the applicant had caught each other's neck and he tried to intervene. In the meantime, as per PW-2 the deceased took out a gun from his kurta and on seeing the same he scattered and in the meantime they started scuffling with each other and on seeing this he rushed towards the bathroom to call the Rajender Kumar (PW-1) and when he reached the bathroom he heard a noise and on turning back he saw the deceased lying on the ground alongwith blood splattered. This witness does not say anything about the applicant being found with the weapon at the spot.

9. The aforesaid testimony does not support the case of the prosecution. The prosecution had cited 32 witnesses out of which 6 have already been examined. It is further submitted that 3 material witnesses including the eye-witness have already been examined. The applicant is stated to be in custody since 17.11.2022 and he is not involved in any other case.

10. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to



following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
 - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
 - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
11. The application is allowed and disposed of accordingly.
 12. Pending applications, if any, also stand disposed of.
 13. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
 14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
 15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 27, 2025/sn/pr

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