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

+ **BAIL APPLN. 3731/2024**

AAKASH @ AASHU

.....Petitioner

Through: Mr. Akshay, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
along with IO Inspector R. Kumar
SHO/V. Vihar and SI Mohit P.S.
Bawana.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
14.05.2025

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1. The present application under Section 439 read with Section 482 of the Cr.P.C. (Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeks regular bail in case FIR No. 177/2019, under Sections 302/120B/34 of the IPC & under Sections 25/27 of the Arms Act, 1959 registered at P.S. Bawana.
2. It is the case of the prosecution that on 19.04.2019 at 20:06:51 *vide* DD No. 86A, an information was received at P.S. Bawana in regard to the shooting of the brother of the caller at Kumhar Wali Gali, Village Bajitpur, Bawana. It is the case of the prosecution that on receipt of the said information, the police personnel from P.S. Bawana reached the spot and on inquiry, it was revealed that a shooting incident took place at the roof of the



abandoned house of Sube Singh and in this incident, one Narendra @ Kala, son of Kapoor Singh sustained a bullet injury and has been shifted to the hospital by the family members. It is the case of the prosecution that one eye witness, namely, Pradeep Kumar (PW-18), son of Jagbir Singh was found and on his statement, the above-mentioned case was registered and investigation taken up. Subsequently, as per the case of the prosecution, two more eye witnesses namely, Attar Singh (PW-2) and Sandeep Kumar (PW-6) were examined. They both stated that on 19.04.2019, they were sitting with the deceased on the roof of Sube Singh's house and around 7:00 P.M., three boys came on a motorcycle out of which two of them came on the roof asking the address of Rohit of Poker's family. Attar Singh (PW-2) further stated that he had taken the boys to Poker's house and came back to the deceased-Narendra @ Kala. It is further stated that said two boys again came on the roof around 7:30 P.M. and asked the deceased to talk to someone on the mobile and as soon as the deceased pronounced his name, 'Kala' on the phone, the second boy opened fire on him thereby injuring him. Thereafter, the accused persons ran away from the spot on their motorcycle. It is further the case of the prosecution that the nephew of the deceased namely Kuldeep Singh (PW-11) had stated he had seen three boys on the motorcycle along with Rahul Maniar at Dada Maldeo temple at the adjoining place.

3. After the investigation was complete, the chargesheet was filed. It is the case of the prosecution that the present applicant along with two other persons, namely, Himanshu and Rohit @ Tara had come on a bike to the spot and the present applicant was riding the bike. It is further alleged that the aforesaid two accused persons Himanshu and Rohit @ Tara went upstairs, who allegedly fired at the deceased and the present applicant remained on the



motorcycle and after commission of crime, they all fled away from the spot. It is also the case of the prosecution that the present applicant was identified by witnesses Kuldeep Singh (PW-11), Attar Singh (PW-2) and Sandeep Kumar (PW-6).

4. Learned counsel for the applicant submits that the witnesses cited by the prosecution *qua* the applicant have already been examined and they have not supported the case of the prosecution. It is submitted that 56 witnesses have been cited by the prosecution out of which 23 witnesses have been examined so far. It is further submitted that the applicant has been in custody since 17.07.2019 and he is not involved in any other case.

5. Learned APP from the instructions of the Investigating Officer submits that the eye witnesses *qua* the present applicant have been examined, however, their testimony shows that they have not supported the case of the prosecution *qua* the applicant. It is submitted that no other witness with regard to identification of the present applicant remains to be examined.

6. Heard learned counsel for the parties and perused the records.

7. This Court has gone through the testimonies of Attar Singh (PW-2), Sandeep Kumar (PW-6), Kuldeep Singh (PW-11) and Pradeep Kumar (PW-18). They have not supported the case of the prosecution *qua* the applicant. As per the nominal roll dated 28.10.2024, the applicant is in judicial custody since 17.07.2019 and the applicant is involved in two other cases, however, it is recorded that in those cases, the applicant is on bail.

8. In the totality of facts and circumstances, 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 two sureties 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.
- vi. The applicant shall appear before the concerned Police Station *i.e.*, P.S Bawana on every second Monday at 04:00 P.M. and the concerned officer is directed to release him by 5:00 P.M. after recording his presence and completion of all the necessary formalities.
9. The application is allowed and disposed of accordingly.
10. Pending application(s), if any, also stands disposed of.
11. 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.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.



13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 14, 2025/ssc/sc

Click here to check corrigendum, if any