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

+ **BAIL APPLN. 3816/2024**

RAJ KUMAR

.....Petitioner

Through: Mr. Raj Kumar and Mr. Nitin Singh
Kathayat, Advs.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
Insp. Nafe Singh and SI Sumit.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

26.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the Cr.P.C. (Section 483 of the BNSS) read with Section 482 Cr.P.C. (Section 528 of the BNSS) seeks regular bail in case FIR No. 198/2020 under Sections 302/307/34 of the IPC and 25/27/54/59 of the Arms Act, 1959 registered at P.S. Jagat Puri, Delhi.
3. The case of the prosecution is that on 18.08.2020 at about 9:30 P.M., a PCR call was received at P.S. Jagat Puri regarding firing at Rashid Market, Jagat Puri, Delhi. On reaching the spot the concerned police personnels were informed that 2 persons had received gunshot injuries and had been taken to Dr. Hedgewar Hospital for treatment. After reaching at the aforesaid hospital, it was brought to the knowledge that one injured, namely, Israr, son of Mohd Iftar had been declared brought dead and the other injured person, namely, Salman was under treatment and not fit for the statement. It is the case of the



prosecution that one eye-witness, Mohd. Arif (PW-1) gave a statement wherein, it is alleged that he had an electric shop at Rashid Market where he was working with his youngest brother Salman and his elder brother Amzad. It was alleged that some days back Salman had an altercation over some monetary issue with one Sumit, son of the present applicant and that the said Sumit had threatened Salman. It is alleged on 18.08.2020 at about 9:00 P.M when PW-1 was going to his home from the shop along with Salman and they reached in front of *Baba Pan Bhandar*, Bhagat Singh road, Rashid Market, where a quarrel was taking place between Israr @ Bomda, Sumit and his family members. It was alleged that Sumit and his father Raj Kumar *i.e.*, the present applicant was saying to Israr @ Bomda that he was very arrogant and they would teach him a lesson. It is further alleged that Sumit's younger brother *i.e.*, Ajay (CCL) and the present applicant asked Sumit to end the game of Israr @ Bomda. It is the case of the said eye-witness that Sumit's friend Mukesh @ Doli was with him at the time, who took out a pistol and gave it to Sumit saying "*Maar Goli Sale Ko*". It is alleged that his brother Salman tried to intervene but Sumit did not pay any heed and fired on Israr @ Bomda first and, thereafter, he also shot at Salman as he was defending the aforesaid Israr @ Bomda. After completion of the investigation, the chargesheet has been filed.

4. Learned counsel appearing on behalf of the applicant submits that the present applicant's name has been roped in on account of personal enmity amongst the witnesses and the son of the present applicant. Both the material witnesses *i.e.*, Mohd. Arif and Salman have already been examined. The prosecution has cited 38 witnesses out of which only 3 have been examined so far. The applicant has been in judicial custody since 01.09.2020.



5. *Per contra*, learned APP appearing on behalf of the State submits that the eye-witness and the complainant have been examined before the learned Trial Court and have supported the case of the prosecution. It is further submitted that the applicant is involved in other previous offences in FIR No. 705/2005 under Section 160 of the IPC registered at P.S. Preet Vihar and FIR No. 468/2012 under Sections 323/452/34 of the IPC registered at P.S. Jagatpuri.

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

7. This Court has gone through the testimony of PW-1 and PW-2, the role ascribed to the present applicant is of exhortation at the time of the incident without assigning any further role. PW-1 and PW-2, the main injured eye-witness and the complainant have already been examined. Prosecution has cited 38 witnesses out of which 3 have been examined so far.

8. Nominal roll dated 02.12.2024 shows that the applicant has been in custody since 01.09.2020 which would bring the custody period of the present applicant to 4 years 6 months.

9. In totality of the 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. 25,000/- with one surety of a like amount, subject 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.
10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. 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.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 26, 2025/kr/sc

Click here to check corrigendum, if any