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

+ **BAIL APPLN. 3982/2024**

ASHUTOSH MISHRA

.....Petitioner

Through: Mr. Ashok Agarwal, Mr. Dhruv
Sharma and Mr. Balram Singh,
Advocates

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

22.04.2025

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1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 634/2014, registered at Police Station Jafrabad, Delhi for the offences punishable under Sections 186/353/302/394/34 of the Indian Penal Code, 1860 (hereafter '*IPC*').
2. Issue notice. Mr. Manoj Pant, the learned APP accepts notice on behalf of the State.
3. Briefly stated, the facts of the present case are that the present FIR had been registered on the statement made by the complainant Sudhir Kumar, wherein it was stated that on 27.09.2014, at about 12:45 PM, while patrolling on his private vehicle, he had noticed two persons, wearing black helmets, on one motorcycle, near Gard Cheap Cut Piece House. The pillion rider had fallen due to a jerk from the motorcycle and while he was picking



up the helmet from his left hand, the complainant had noticed one pistol in his right hand. Further, the complainant also turned his motorcycle towards them, and then, he saw that a government motorcycle had been lying there and Constable Dharampal, of his police station, had been lying on the ground, and blood had been oozing out from his head. Thereafter, the complainant and one Constable Ajeet had brought Dharampal to the GTB Hospital, Delhi, wherein he was declared “brought dead”. On 04.07.2016, the accused persons were arrested in some other case in PS Kotwali, Uttar Pradesh, and had allegedly confessed their involvement in the present case.

4. The learned counsel appearing on behalf of the applicants argues that the applicant herein has been falsely implicated in the present case, and there is nothing on record to connect the present applicant to the alleged offence. It is argued that the applicant has been arrested only on the disclosure statements. It is argued that the applicant has been in judicial custody since 06.07.2016, and only eight out of fifty-one witnesses have been examined so far, the trial will certainly take a long time to conclude. Therefore, it is prayed that the applicant be released on regular bail.

5. The learned APP for the State, on the other hand, opposes the present bail application and submits that the allegations levelled against the present accused/applicant are serious in nature. It is argued that the applicant herein would certainly influence the prosecution witnesses by extending threats and may hamper the fair trial of the case since only eight out of fifty-one witnesses have been examined so far. It is also submitted that the accused/applicant herein is also involved in other heinous case of murder. Therefore, it is prayed that the application for grant of regular bail be rejected.



6. This Court has heard arguments advanced on behalf of both the parties, and has perused the material available on record.

7. This Court notes that the post-mortem report of the deceased reveals that *ante-mortem injury to the head and neck produced by projectile of rifled firearms and the injuries are opined to be sufficient to cause death in ordinary course of nature individually and collectively*. Thus, prima-facie death had taken place due to the firearm injury.

8. This Court notes that two witnesses, PW-6 Sudhir and PW-7 Ajeet had identified the accused/applicant herein, before the learned Trial Court.

9. This Court has also perused the statement of PW-4 Ashok Kumar, who had deposed in his testimony, that he had seen two persons sitting on a motorcycle near the place of incident, and pillion rider had got down and fired two bullets towards the deceased, and had cut deceased person's belt with a knife and took his pistol, and had thereafter, fled away.

10. After hearing arguments and going through the case file, this Court notes that the allegations against the accused are serious in nature, and the material placed on record *prima facie* reveals his involvement.

11. Considering the overall facts and circumstance of the case, and the fact that the material witnesses are yet to examine, this Court is not inclined to grant bail to the accused at this stage.

12. Accordingly, the present application for grant of regular bail stands dismissed.

13. The learned Trial Court is, however, requested to expedite the recording of evidence in this case.

14. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.



15. The order be uploaded on the website forthwith.

APRIL 22, 2025/zp

DR. SWARANA KANTA SHARMA, J

Click here to check corrigendum, if any