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

+ BAIL APPLN. 4317/2024

SHAHI HASAN @ SAISAN

.....Petitioner

Through: Mr. Bhupendra Singh Chowdhary and
Ms. Sneh Lata Rana, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for State
SHO/Inspector Rajendra Gujar and SI
Mahendra Patel, PS Narela; Inspector
Rajesh Kumar, PS Kashmiri Gate
Metro; Inspector Jaspal Singh, PS
Burari

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

10.01.2025

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CRL.M.A. 35280/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 4317/2024

3. The instant application under Section 439 of the Code of Criminal Procedure, 1973 has been filed on behalf of the applicant seeking regular bail in FIR bearing No. 666/2020, registered at Police Station Burari, Delhi, for offences punishable under Section 302/120B/34 of the Indian Penal Code, 1860 (hereinafter 'IPC') read with Section 25/27 of Arms Act, 1959.
4. Issue notice. Mr. Manoj Pant, the learned APP accepts notice on



behalf of the State.

5. Briefly stated, the present FIR was registered at the instance of the complainant Raunak Singh, who alleged that on 09.12.2020 at about 04:30 PM, he had met one Anand Bhardwaj, who was accompanied by Anuj and Rohit. He informed that Anand was of the view that the influence of Saddam, and Shahi Hassan i.e. the present applicant, was increasing and they were required to be taught a lesson. The complainant, who is an eye-witness in this case, stated that Anand and Anuj were having sticks with them and in the meantime, a quarrel had taken place over the phone between Saddam and Anand. After sometime, at about 05:00 PM, accused Saddam, Shahi Hassan and Arman had reached the spot and a scuffle had taken place between all of them. The complainant and Rohit had tried to intervene; but Shahi Hassan had fired at Anuj and Saddam had fired at Anand. Thereafter, a PCR call was received at 05:39 PM regarding two persons having been murdered, and SI Prem Prakash alongwith his team had reached the spot. The victims namely, Anuj and Anand were taken to BJRM Hospital, but were declared brought dead. The present applicant was arrested in this case on 11.12.2020.

6. The learned counsel for the present accused/applicant contends that the applicant has been in judicial custody for the last four years. He argues that co-accused persons have already been granted regular bail, and all the public witnesses examined have turned hostile before the learned Trial Court. It is, therefore, prayed that the applicant be granted regular bail.

7. The learned APP for the State vehemently opposes the grant of bail to the applicant and states that the seriousness of the offence cannot be ignored



as well as the fact that a brutal murder was committed by firing at the chest of the deceased.

8. This Court has heard arguments on behalf of both the parties and perused the material place on record.

9. Having gone through the records as well as the testimonies of the witnesses, this Court notes that undisputedly, all the public witnesses have turned hostile and have not supported the prosecution's case on the identity of the accused persons or identification of the alleged offence in question. A perusal of the certified copy of testimony of PW-3 reveals that he is a public eyewitness, who has turned hostile.

10. The learned APP for the State had contended that the CCTV footage in this case would reveal the presence of the applicant at the spot. However, it is material to note that while the testimony of PW-3 was recorded by the learned Trial Court, the DVR which contained the CCTV footage was not played, and rather it was the State which had requested that there was no need to play the DVR or see the CCTV footage in light of the fact that the witness had turned hostile and had neither identified the accused nor the offence.

11. It is also not disputed that the co-accused has also been granted bail in this case. Thus, considering the overall facts and circumstances of case and also considering that the accused has been in judicial custody for the last more than four years and trial will take some time to conclude, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:



- (i) The applicant shall not leave country without prior permission of the concerned Trial Court.
 - (ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
 - (iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.
 - (iv) The applicant shall appear regularly before the learned Trial Court and/or as and when directed by the learned Trial Court.
12. The bail application stands disposed of.
13. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 10, 2025

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Click here to check corrigendum, if any