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

+ **BAIL APPLN. 4466/2024**

SATISH YADAV

.....Petitioner

Through: Mr. Hirein Sharma, Mr. Balaji Pathak
and Mr. Anil Dalal, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for the State
with Insp. Ichha Ram,
P.S.:Dariyaganj.
Mr. Nasir Kamal, Advocate for the
complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

13.02.2025

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No. 191/2022 dated 18.05.2022 registered under section 302 of the Indian Penal Code, 1860 and section 27 of the Arms Act, 1959 at P.S.: Darya Ganj, Delhi.

2. Notice on this petition was issued on 05.12.2024. Status Reports dated 23.12.2024, 20.01.2025 and 28.01.2025 have been filed. Nominal Roll dated 30.12.2024 has been received from the concerned Jail Superintendent.
3. Mr. Hirein Sharma, learned counsel appearing for the petitioner submits, that petitioner is being falsely implicated in the murder of one Moinuddin which took place on 17.05.2022. It is submitted that the petitioner was arrested about 02 months later, on 04.07.2022, on



the disclosure statement of co-accused/Vinit Goswami, in which the said co-accused is supposed to have disclosed that the motorcycle, which was allegedly used in the commission of the offence, was provided by the petitioner. It is pointed-out that apart from the fact that this disclosure statement was a supplementary disclosure statement of the said Vinit Goswami, another co-accused/Shoaib has made a contrary disclosure statement, to the effect that the motorcycle was provided, not by the petitioner, but by one Furkan.

4. Mr. Sharma argues, that admittedly the motorcycle in question had already been recovered on 18.05.2022; and, to be sure, the motorcycle was not recovered at the instance of the petitioner, who was arrested much later on 04.07.2022. It is also submitted that the motorcycle is neither registered in the petitioner's name nor does it belong to him otherwise.
5. Mr. Sharma submits, that it is also the prosecution case that co-accused Vinit Goswami was hired to murder the deceased and that the weapon of offence, viz. a country-made pistol and 05 live cartridges, were provided by co-accused Amit Giri @ Badam; and no other role has been ascribed to the petitioner.
6. It is also submitted that in the course of his court deposition, the supposed eye-witness Ruknuddin (PW-1), which was concluded on 12.09.2024, the witness has not named the petitioner.
7. Mr. Sharma explains, that though the prosecution alleges that the petitioner had had several telephonic conversations with the co-accused persons, viz. Vinit Goswami and Amit Giri @ Badam, those conversations happened for the reason that both the said persons were



the petitioner's neighbours from his native village; and those conversations had nothing to do with the alleged offence. Insofar as the conversations with co-accused Afsar @ Happy are concerned, it is submitted, that the petitioner was acquainted with the said person through one of the other co-accused persons.

8. Mr. Sharma argues, that the prosecution has not even alleged any personal enmity or other reason why the petitioner would be involved in the murder of the deceased; that admittedly the petitioner was not present at the scene of the offence at the relevant time; and that nothing has come on record to show any financial or other transaction between the petitioner and the co-accused persons. In particular, it is pointed-out, that it is not even the prosecution case that the petitioner had visited Bareilly, Uttar Pradesh alongwith other co-accused persons, where the others are alleged to have hatched the conspiracy to murder the deceased.
9. In the circumstances, Mr. Sharma prays that the petitioner should be granted regular bail.
10. Opposing the grant of bail, Ms. Manjeet Arya, learned APP appearing for the State on the other hand contends, that as per the investigation, co-accused Amit Giri @ Badam had handed-over the country-made pistol used in the commission of the offence to the petitioner, who had in-turn handed it to co-accused Vinit Goswami; and in that connection the petitioner had received Rs. 1 lac, which he then used to purchase certain electrical goods.
11. Ms. Arya further submits, that the petitioner had had more than 350 conversations with co-accused Vinit Goswami; more than 700



conversations with co-accused Amit Giri @ Badaam; and about 38 conversations with co-accused Afsar @ Happy between February 2022 and May 2022, which was the period during which the co-accused persons entered into the conspiracy to murder the deceased. Upon being queried however, Ms. Arya admits that this allegation is based only on what is disclosed in the CDRs of the relevant parties but no messages or phone recordings of those conversations have been recovered.

12. Ms. Arya further argues, that the CDR charts also indicate that on 19.03.2022 the petitioner was also present in Village : Bamheta in District : Ghaziabad and then again on 11.04.2022 in Darya Ganj, Delhi alongwith some of the co-accused persons, which is when further steps were taken by them for commission of the offence.
13. The court has also heard Mr. Nasir Kamal, learned counsel appearing for next-of-kin of the deceased, being the brother of the deceased.
14. Mr. Kamal submits, that the petitioner not only provided the motorcycle which was used in the commission of the murder, he was also concerned with supplying the weapon of offence to Vinit Goswami, who wielded the weapon.
15. Most importantly, Mr. Kamal argues, that of the 09 public witnesses cited in the charge-sheet, only 04 have deposed so far before the learned trial court; and if the petitioner is enlarged on bail, he would influence or suborn those witnesses.
16. Upon an overall conspectus of the facts and circumstances of the case, what weighs with the court at this stage are the following considerations :



- 16.1. A perusal of the record shows that the principal allegation against the petitioner is of having provided the motorcycle, which is alleged to have been used in the commission of the offence. This allegation is based on a supplementary disclosure statement made by co-accused Vinit Goswami. Admittedly, the motorcycle was *not recovered* pursuant to that statement *nor* was it recovered pursuant to any disclosure statement made by the petitioner. In fact, another co-accused Shoaib has made a *contradictory* disclosure statement, saying that the motorcycle used for the offence was provided by one Furkan.
- 16.2. Furthermore, in his deposition, PW-1 Ruknuddin, who is claimed to be the eye-witness to the offence, and on whose complaint the said FIR was registered, has *not named* the petitioner.
- 16.3. It is also not the prosecution case that the petitioner was at all present at the scene of the crime at the relevant time; nor that he wielded the weapon.
- 16.4. Furthermore, it also transpires that though the prosecution is alleging extensive phone connectivity between the petitioner and some of the co-accused persons, the petitioner appears to explain that, to say that he was acquainted with 02 of the co-accused persons since they belonged to the same village and were neighbours. Furthermore, there is nothing on record by way of any phone recordings, WhatsApp chats or other messages which may give an insight into the context or content



of the alleged phone conversations between the petitioner and the other co-accused persons.

16.5. The petitioner's Nominal Roll dated 30.12.2024 shows that he has suffered judicial custody as an undertrial for about 02 years and 07 months; and though he is implicated in another case registered under sections 420/467/468/471/323/ 504/506/120-B IPC at P.S.: Wave City, Ghaziabad, Uttar Pradesh, he is stated to be on bail in the said case. The petitioner's jail conduct is shown in the nominal roll as being 'satisfactory'.

16.6. The court is also informed that of the 60 prosecution witnesses cited in the case, only 04 have deposed so far, despite the charge-sheet having been filed on 23.08.2022. Clearly therefore, the trial will take a very long time to conclude.

17. Upon an overall conspectus of the facts and circumstances of the case, and considering the allegations against the petitioner, the court is persuaded to grant to the petitioner – **Satish Yadav @ Kalu s/o Lt. Mange Ram Yadav** – regular bail pending trial, subject to the following conditions :

17.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

17.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 17.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 17.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 17.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
18. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
19. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
20. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
21. The petition stands disposed-of in the above terms.
22. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 13, 2025

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