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

+ **BAIL APPLN. 4582/2024**

ZEEBA QURESHI

.....Petitioner

Through: Mr. Murari Tiwari, Mr. Rahul Kumar,
Ms. Shweta Rani, Mr. Avinash
Pandey, Mr. Ujjwal Singh and Ms.
Nimisha Gupta, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastva, APP for the
State with Insp. Ichha Ram, P.S.
Daryaganj.
Mr. Nasir Kamal, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

27.02.2025

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks regular bail in case FIR No. 0191/2022 dated 18.05.2022 registered under section 302 of the Indian Penal Code, 1860 ('IPC') and section 27 of the Arms Act, 1959 ('Arms Act') at P.S.: Darya Ganj, Delhi ('subject FIR').

2. Notice on this petition was issued *vide* order dated 16.12.2024; pursuant to which status report dated 18.12.2024 has been filed on behalf of the State.



3. Nominal roll dated 20.12.2024 has also been received from the concerned Jail Superintendent.
4. The court has heard Mr. Murari Tiwari, learned counsel appearing on behalf of the petitioner; Mr. Tarang Srivastva, learned APP on behalf of the State; as well as Mr. Nasir Kamal, learned counsel appearing for the complainant at length.
5. Written synopses have been filed on behalf on the petitioner and the complainant. Learned APP has handed-up a copy of the written submissions dated 27.02.2025, which are taken on record.
6. Mr. Tiwari submits that the principal allegation against the present petitioner is that she conspired with one Shoaib Saifi to do the deceased (who was her husband) to death. In this behalf, Mr. Tiwari explains that it is the prosecution's case that the petitioner was having illicit relations with co-accused Shoaib Saifi, by reason of which they both decided to eliminate the deceased.
7. Learned counsel submits, that even going by the prosecution case, and assuming the worst against the petitioner, the allegation *qua* her is that she was a conspirator but not the assailant who killed the victim.
8. Mr. Tiwari submits that the 02 eye-witnesses cited on behalf of the State *i.e.*, PW-2 Nadeem and PW-3 Fahim have both not supported the prosecution case in their depositions before the learned trial court. Counsel submits, that during the course of their examination, the said witnesses have turned hostile and deposed contrary to their previously recorded statements under section 161 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') and have failed to identify the 02 persons who rode-in on a motorcycle and shot the deceased. To this end,



counsel draws the attention to the depositions of PW-2 and PW-3, both dated 05.11.2024, recorded before the learned trial court, copies of which have been appended to the present bail petition.

9. Mr. Tiwari accordingly argues, that with the eye-witnesses having failed to identify co-accused Shoaib Saifi as one of the persons who shot the deceased, the prosecution theory of any direct or in-direct involvement of the petitioner with the commission of the offence, also fails.
10. Learned counsel submits, that apart the prosecution theory that the petitioner had conspired with Shoaib Saifi to kill the deceased, no other evidence has come on record implicating the petitioner in the offence.
11. Mr. Tiwari further points-out, that *vide* order dated 13.02.2025 passed in BAIL APPLN. No. 4466/2024, this Bench has already admitted co-accused Salish Yadav to regular bail in the same case.
12. All else apart, Mr. Tiwari submits that the petitioner is a 44-year-old lady, who is at present admitted to the Medical Inspection Room at the Central Jail, Tihar, New Delhi. Learned counsel submits that the petitioner is suffering from lower backache with lower limb radiculopathy, for which she is on medication. Mr. Tiwari further submits, that the petitioner has been advised bed-rest and she is unable to go about her daily routine without support and a care-taker has been assigned to her.
13. In this backdrop, Mr. Tiwari points-out that only 04 out of 60 prosecution witnesses have so far been examined, despite the chargesheet having been filed on 23.08.2022; and in the interregnum,



the petitioner has suffered judicial custody of about 02 years and 09 months as an undertrial.

14. In light of the above, Mr. Tiwari prays that the petitioner be admitted to regular bail.
15. Opposing the grant of regular bail, learned APP submits that the petitioner has a central and direct role in executing the conspiracy of getting her husband killed, since it was at her instance that co-accused Shoaib Saifi, with whom she was having an illicit relationship, did the deceased to death.
16. It is submitted, that on 16.04.2022 the petitioner met with co-accused Shoaib Saifi at Hotel Prince Palace, Pahar Ganj, New Delhi where they conspired to kill her husband; and it was at that meeting that the petitioner disclosed her husband's daily routine to Shoaib to carry-out the killing. Learned APP submits that the presence of both persons at the hotel stands corroborated by the hotel records.
17. Mr. Srivastva submits, that in addition to the section 161 Cr.P.C. testimony of the eye-witnesses, certain CCTV footage has also come on record to show that that co-accused persons - Shoaib Saifi and Vinit Goswami - were found near the place of occurrence on a motorcycle.
18. Learned APP submits, that it has not been denied by the petitioner that she was having an illicit relationship with co-accused Shoaib Saifi, which supports the prosecution case of conspiracy.
19. Mr. Kamal, learned counsel appearing for the next-of-kin of the deceased, adopts the submissions made on behalf of the State; and in addition submits, that upon the death of the deceased, the petitioner



was also to receive a share in his estate, which was another reason for her to commit the offence.

20. Upon a conspectus of facts and circumstances obtaining in the matter, and after hearing learned counsel appearing on behalf of the parties, the considerations that prevail with the court at this stage are the following :

20.1. The petitioner is a lady, about 44 years of age and as per Medical Status Report dated 19.12.2024 she is presently admitted in the Medical Inspection Room of the Central Jail, Tihar, New Delhi since she is suffering from lower backache, with left lower limb radiculopathy/hypothyroidism/migraine and is being managed in the jail medical facilities. The medical status report also records that the petitioner has been advised bed-rest by the doctors and is unable to do her daily routine work without support and a caretaker has been provided to her for that purpose. The petitioner is also stated to be in the regular follow-up at the Deen Dayal Upadhyay Hospital, New Delhi as well as at the Safdarjung Hospital, New Delhi;

20.2. The petitioner is stated to be the wife of the deceased - Moinuddin Qureshi - and the allegation against her is that she conspired with the other co-accused persons in the matter, in particular with Shoaib Saifi, with whom she was having an illicit affair to eliminate her husband. However, there is no allegation that she was either the assailant; or that she was present at the scene of the crime at the relevant date and time;



- 20.3. The 02 eye-witnesses cited on behalf of the prosecution namely, PW-2 Nadeem and PW-3 Fahim, have both turned hostile in the course of their court deposition and have recanted on their statements recorded under section 161 Cr.P.C. to the extent that they have failed to identify the 02 persons who are stated to have come on a motorcycle and shot the deceased;
- 20.4. As argued on behalf of the petitioner, if the person with whom the petitioner is stated to be having an affair, namely Shoaib Saifi, has himself *not been identified* by the eye-witnesses to the incident, then the entire angle of the petitioner being involved in the offence comes under cloud;
- 20.5. Since the petitioner does not dispute that she was having an affair with co-accused Shoaib Saifi, the other witnesses cited by the prosecution to prove that the petitioner had met Shoaib Saifi at a hotel, or that she had had telephonic conversations and WhatsApp chats with the said co-accused, also do not acquire incriminating character in relation to the offence of murder;
- 20.6. No other cogent evidence or material appears to have come on the record that would incriminate the petitioner;
- 20.7. By order dated 13.02.2025 made in BAIL APPLN. No. 4466/2024, this Bench has already granted regular bail to co-accused Salish Yadav in the matter; and
- 20.8. As pointed-out on behalf of the petitioner, only 04 out of 60 prosecution witnesses have so far been examined, despite the chargesheet having been filed on 23.08.2022, while in the meantime, as seen from the nominal roll received from jail, the



petitioner has suffered judicial custody of above 02 years and 09 months as an undertrial. It is therefore evident that trial in the matter will take a long time to conclude.

21. As a sequitur to the above discussion, this court is persuaded to grant to the petitioner - *Zeeba Qureshi w/o Lt. Moinuddin Qureshi* - regular bail pending trial, subject to the following conditions:

- 21.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 21.2. The petitioner shall furnish to the Investigating Officer ('I.O.'), 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;
- 21.3. If the petitioner has a passport, she 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;
- 21.4. 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
- 21.5. In case of any change in her residential address/contact details, the petitioner shall promptly inform the I.O. in writing.



22. 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.
23. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
24. A copy of this order be sent to the concerned Jail Superintendent *forthwith*, for information and compliance.
25. The petition stands disposed-of in the above terms.
26. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 27, 2025

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