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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4659/2024**
SHAKEEL AHMAD @ SUSHIL @ ARVINPetitioner

Through: Mr. U.A. Khan and Mr. Tushar
Upadhyaya, Advocates.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Tarang Srivastava, APP for the
State with SI Sunit, P.S.:Jagat Puri.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **29.01.2025**

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. 272/2018 dated 17.09.2018 registered under sections 394/397/34 of the Indian Penal Code, 1860 ('IPC') and sections 25/27 of the Arms Act, 1959 at P.S.: Jagat Puri, Delhi. Consequent upon completion of investigation, offences under section 395/120-B/412/34 IPC were added *vide* chargesheet dated 31.12.2018.

2. Notice on this petition was issued on 18.12.2024. Status Report dated 24.01.2025 has been filed in the matter. Nominal Roll dated 27.01.2025 has also been received from the Jail Superintendent.



3. Mr. U.A. Khan, learned counsel appearing for the petitioner submits, that in the course of trial, the 02 main prosecution witnesses, viz. PW-3/Umesh Bansal and PW-4/Ram Sewak Gupta, who are the complainant and the injured person respectively, have failed to identify the petitioner. A copy of the deposition of PW-3 has been filed on record, perusal of which shows that in the course of his court deposition though the witnesses correctly identifies co-accused/Indal, as far as the petitioner/Shakeel Ahmad is concerned the witness has said that he is unable to recollect his facial contours, and therefore, has failed to identify the petitioner.
4. Mr. Khan has also handed-up a copy of the cross-examination of PW-4/Ram Sewak Gupta conducted on 28.01.2025, to point-out that the said witness, who is supposed to be the one who was fired-upon in the incident, has also said that he is not sure whether the petitioner is the person who committed robbery upon the victims. The cross-examination of PW-4 is taken on record.
5. Counsel submits, that apart therefrom, no recovery has been effected from the petitioner either of the robbed articles or of the *katta* that is alleged to have been used in the course of the offence.
6. In response to the submissions made on behalf of the petitioner, Mr. Tarang Srivastva, learned APP appearing for the State submits, that the petitioner has a long list of 56 criminal involvements, as detailed in status report dated 24.01.2025; and that therefore, the petitioner is not a candidate for grant of regular bail.
7. Mr. Khan however points-out that in most of the cases cited by the State against him, the petitioner has either been discharged or



acquitted or the offences against him stand compounded; and that though he has suffered some convictions, he has either served-out his sentence or his sentence has been suspended in those cases. Counsel further submits that in all other cases in which he is an undertrial, he has been admitted to regular bail.

8. Counsel submits that because of his past conduct, the petitioner is a soft target and is framed by the police in every unsolved case of theft, robbery etc., which is the reason he gets discharged/acquitted in most cases.
9. It is further pointed-out that in the present case, the petitioner has undergone judicial custody as an undertrial from the time of his arrest on 08.04.2019, *i.e.* for almost 06 years; that only 02 out of 35 prosecution witnesses have so far been examined before the learned trial court; and that the trial in the matter will take a long time to conclude.
10. Furthermore, in response to the allegation that the petitioner's jail conduct is 'unsatisfactory' as reflected in the nominal roll, counsel submits that only one jail punishment is reflected in the nominal roll, which was for the recovery of a cell-phone and for misbehaviour with the jail staff, for which he has already suffered the prison punishment that was awarded to him.
11. Upon an overall conspectus of the case, what prevails with the court at this stage are the following considerations:
 - 11.1. Two prime prosecution witnesses, *viz.* PW-3 (complainant) and PW-4 (injured person), have both turned hostile to the extent



that they have failed to identify the petitioner as one of the person who was involved in the alleged offence.

11.2. Though there is no denying the fact that the petitioner has a long list of criminal involvements as detailed in the status report, it is also seen that in several of those cases the petitioner has either been discharged or acquitted or the offences against him have been compounded. As per the details of the cases set-out in the status report, it is seen that the petitioner was convicted in 05 cases, out of which he has undergone sentence in 02; and the court is informed that one of the convictions has been over-turned in an appeal. The court is also informed that the petitioner's sentence in one of the other convictions has been suspended. In any event, this court would confine itself to considering the petitioner's bail plea in the present case and the fate of his custody in other cases would be decided in separate proceedings relating to those offences.

11.3. Most importantly, the petitioner has already undergone judicial custody for almost 06 years in the present case; while only 02 out of 35 prosecution witnesses have so far been examined before the learned trial court. It is evident therefore that trial in the matter will take a long time to conclude.

12. As a sequitur to the above, this court is persuaded to admit the petitioner – ***Shakil Ahmad s/o Muktiyar Ahmad*** – to *regular bail* pending trial, subject to the following conditions :

12.1. 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;

- 12.2. The petitioner shall furnish to the Investigating Officer/S.H.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;
- 12.3. 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;
- 12.4. 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
- 12.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
13. In view of what has been submitted by the learned learned APP, and considering the petitioner's chequered past, it is further directed that the petitioner shall scrupulously and regularly attend every date of hearing before the learned trial court, unless exempted by orders of the learned trial court on compelling grounds. The petitioner is cautioned that any default in appearance before the learned trial court may result in cancellation of the regular bail granted to him.
14. Needless to observe, the learned trial court will consider any request made by the petitioner for exemption from personal appearance



reasonably, if sufficient ground is made-out; but in no case will the trial in the matter be delayed for non-appearance of the petitioner.

15. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
16. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
17. The petition stands disposed-of in the above terms.
18. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 29, 2025/ss