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

+ BAIL APPLN. 4698/2024

MOHD ARIF

.....Petitioner

Through: Mr. Ramvir Singh and Mr. Abdul
Salam, Advs.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for State with
Insp. Sandeep Kumar, PS.
Bhajanpura.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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20.01.2025

1. The present petition has been filed under Section 483 BNSS seeking regular bail in connection with FIR No.1/2021 under Sections 302/307/120B/34 IPC and Sections 25/27 of Arms Act registered at Police Station Bhajanpura.

2. The brief facts leading to the registration of present FIR are that while the complainant along with his father Ikram (now deceased) was going on a motorcycle to Noor-E-Ilahi. On the way, they stopped when his father received a phone call. The complainant went to get *samosas* from nearby shop, on his father's request, while his father was talking over phone. However, when he returned, he saw that co-accused Shadab was pointing a pistol towards his father and then he shot him, as a result of which Ikram passed away.

3. The learned counsel for the petitioner submits that in the entire FIR, the present petitioner has not been named nor any role has been attributed to



him. Further, no recovery has been made from the present petitioner.

4. He submits that it is the case of the prosecution that the shot was fired by co-accused Shadab and the recovery of weapon was also made from the spot since Shadab was caught by the public after the incident.

5. He submits that the petitioner is in custody since 07.01.2021 and all the public witnesses have been examined. He further submits that the petitioner has clean antecedents and he is not a flight risk. He, therefore, urges the Court that the present petitioner may be enlarged on bail.

6. *Per contra*, the learned APP for the State has argued on the lines of the Status Report. He submits that the first wife of the petitioner, before her death, was having an illicit relationship with the deceased. Further, the deceased also had illicit relations with the second wife of the petitioner. It is for this reason that the petitioner had motive get the deceased eliminated.

7. He submits that the petitioner has been named in the FIR and his presence has been established through CCTV footage. He further submits that the jail conduct of the present petitioner was unsatisfactory.

8. I have heard the learned counsel for the petitioner, as well as, the learned APP for the State and have perused the record.

9. It is the case of the prosecution itself that the gunshot was fired by the co-accused Shadab and the same is not attributed to the present petitioner.

10. On a query posed by the Court, the learned APP on instructions from the I.O, who is present in Court, fairly states that in the CCTV footage though the petitioner is seen present at the spot, but he is not found holding any weapon or doing any overt act.

11. Further, no material has been pointed to substantiate that the deceased wife or present wife, were having any illicit relationship with the deceased.



12. In so far as the alleged unsatisfactory jail conduct of the petitioner is concerned, a perusal of the nominal roll shows that the jail conduct of the petitioner for the last one year has been recorded as satisfactory.

13. All the public witnesses have already been examined, therefore, there does not seem to be any possibility of petitioner influencing or extending threats to the witnesses in the event he is enlarged on bail. It is also not the case of the prosecution in the Status Report that the petitioner has criminal antecedents or that he is a flight risk.

14. Considering the aforesaid circumstances in entirety, this Court is of the view that the petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is admitted to bail subject to his furnishing a Personal Bond in the sum of Rs. 20,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/JMFC/Duty JM, further subject to the following conditions:

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not change his address without prior intimation to the Investigating Officer concerned.
- d) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses, as well as, the family of the deceased.

15. The petition stands disposed of.



16. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.
17. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
18. Order *dasti* under signatures of the Court Master.
19. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 20, 2025/dss