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

+ **BAIL APPLN. 4713/2024**

NIYAMAT KHAN

.....Petitioner

Through: Mr. Aman Mudgal and Mr. Aditya
Singh, Advocates

versus

THE STATE (GOVT.OF NCT OF DELHI) & ORS.Respondents

Through: Mr. Manoj Pant, APP for the State
with SI Jitendra Kumar Special Cell.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

23.01.2025

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CRL.M.A. 38572/2024 (exemption)

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

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3. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 (hereafter '*Cr.P.C*') has been filed on behalf of the applicant, seeking regular bail in case arising out of FIR bearing no. 79/2024, registered at Police Station Special Cell, Delhi for offences punishable under Section 186/353/307 of the Indian Penal Code, 1860 (hereafter '*IPC*') read with Section 25/27 of the Arms Act, 1959.
4. Briefly stated, the facts of the present case are that on 05.03.2024, at about 6:30 PM, while a police officer from the Special Cell/SR, Pushp



Vihar, Delhi, was present in his office, a secret informant had arrived and informed him that a man named Niyamat Khan, a resident of Mewat, Haryana, involved in looting cash by cutting or uprooting ATMs, was expected to arrive with his associates near Moti Bagh/Dhaura Kuan, Delhi, between 11:00 PM and 11:45 PM. The informant had further revealed that the accused would be using a white Creta car and would be conducting *reki* before executing an ATM robbery. It had also been disclosed that he, along with his associates, had recently looted cash from ATMs in Maharashtra and Gujarat and had always carried illegal weapons for his protection. The informant had suggested that if the police raided the location, they could apprehend him. Thereafter, a trap was set near Moti Bagh, Dhaura Kuan, New Delhi. At about 11:10 PM, a white Creta car bearing registration number HR 26EX 2527 had arrived from the Dhaura Kuan side, and had stopped on the service road near a petrol pump. A man had exited the vehicle, and had started using his mobile phone. The informant had identified him as Niyamat Khan. When the police team had disclosed their identity and instructed him to surrender, he had drawn a pistol and had fired at the police. In self-defence, members of the police team had also fired shots and had successfully subdued him. The said accused had been disarmed and was identified as Niyamat Khan, i.e. the present applicant. From the scene, the police had recovered a semi-automatic pistol (.32 bore), a live cartridge, an empty cartridge fired by the applicant, and the Hyundai Creta car used in the commission of the crime. Subsequently, the present FIR was registered.

5. The learned counsel appearing on behalf of the applicant submits that the present applicant has falsely been implicated in the present case and he



has been in judicial custody since 06.03.2024. The learned counsel further argues that all the witnesses cited by the prosecution are police witnesses, eliminating any possibility of tampering with witnesses or evidence, if the applicant is released on bail. It is further argued that the investigating agency has unfairly attributed the same *modus operandi* to him in this case, allegedly as a means to settle personal grudges. It is argued that the FSL report in this case has yet not been received. Therefore, it is prayed that the present applicant be granted bail.

6. *Per contra*, the learned APP for the State submits that during interrogation, the accused had disclosed that he along with his other associates are wanted in 02 other cases of ATM breaking and robbery of cash therefrom, and it is from the said robberies that the applicant had purchased weapons which were recovered from him at the place of incident. It is argued that during the course of investigation, it was revealed that the accused is an active member of a Mewat based gang indulging in ATMs breaking and robbery of cash. It is stated that he is a habitual offender with previous records of similar nature of crimes. It has also been pointed out by the learned APP for the State that 07 other FIRs are registered against the present applicant in Delhi, Haryana, Maharashtra and Gujarat. Therefore, it is prayed that present bail application be dismissed.

7. This Court has heard arguments on behalf of both the parties, and has perused the material placed on record.

8. In the present case, this Court notes that the applicant herein had been apprehended in connection with an incident where he is alleged to have fired upon police officers while being in possession of a semi-automatic pistol and live ammunition. This Court also notes that the investigation in the



present case has revealed that the applicant herein is an active member of an inter-state gang involved in ATM robberies across several states, including Maharashtra, Gujarat, Haryana, and Delhi. It is alleged that at the time of his arrest, the applicant was conducting a *reki* for yet another ATM robbery. It is also alleged that the weapons recovered from the present applicant were purchased using proceeds from prior robberies. The facts of the case and investigation conducted *prima facie* reveals his involvement in organized criminal activities.

9. The contention of the learned counsel for the applicant that all witnesses are police personnel and that there is no risk of evidence tampering, does not mitigate the gravity of the allegations against him. It has also been pointed out that the applicant herein is a habitual offender, with at least seven other FIRs registered against him for similar offences in different States.

10. In view of the facts and circumstances of the case, and the gravity of the allegations against the applicant, including the fact that the applicant had allegedly fired at the police officials, this Court is not inclined to grant bail to the applicant herein at this stage.

11. Accordingly, the present bail application stands dismissed.

12. It is, however, clarified that nothing expressed hereinabove shall tantamount to opinion expressed on the merits of the case.

13. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 23, 2025/

[Click here to check corrigendum, if any](#)