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

+ **BAIL APPLN. 4766/2024**

DEVENDER @ SONU @ PRAVEEN

.....Petitioner

Through: Mr. Akshay, Mr. Anurag Tomar, Mr.
T. Gupta and Mr. Shrikant Mehra,
Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkrash, APP for the State with
Inspr. Surender Kumar

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

28.01.2025

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1. The present petition has been filed seeking regular bail in connection with FIR No. 291/2017 under Sections 302/307/34 IPC and Sections 25/27/54/59 of Arms Act registered at Police Station Kanjhawala, Delhi.
2. The case of the prosecution is that on 18.07.2017 when complainant Pawan Kumar was going on a motorcycle along with his brother – Pradeep Kumar (the deceased), the petitioner and his three associates came from behind in a car, blew horn and asked the complainant to give them way. When the complainant moved aside, the accused persons blocked their way and an altercation took place in which deceased was shot. The complainant was also hit on his thigh.
3. The learned counsel appearing on behalf of the petitioner submits that the case of the prosecution hinges only on the testimony of one eye-witness,



namely, Pawan Kumar (complainant) who was examined as PW12.

4. Inviting attention of the Court to the testimony of PW12, he submits that the present petitioner/accused has not been identified by the said witness. He further submits that the other incriminating circumstance pressed by the prosecution in the present case is recovery of weapon, which is not at the instance of the present petitioner.

5. He submits that the petitioner is in custody since 11.02.2019 and all the material witnesses have been examined. He further submits that though there are other cases against the present petitioner but he is on bail in all such cases. He, therefore, urges the Court that the petitioner may be enlarged on bail.

6. *Per contra*, learned APP appearing for the State has argued on the lines of status report. He submits that the present case is of the year 2017 but the petitioner was absconding for about two years and he was apprehended only in the year 2019, therefore, the petitioner is a flight risk. He, therefore, urges that the bail petition of the petitioner may be dismissed.

7. I have heard the learned counsel for the petitioner as well as learned APP for the State. I have also gone through the testimony of PW12 for the limited purpose of deciding the bail plea of the petitioner. A bare perusal of the said testimony shows that the present petitioner has not been identified by the sole eye-witness i.e. PW12.

8. It is also not in dispute that the recovery of the offence weapon is also not at the instance of the present petitioner.

9. In so far as the pendency of other criminal cases against the present petitioner is concerned, needless to say that the pendency of such cases cannot be the sole ground for dismissing the present bail petition, especially



when the petitioner is in custody since 11.02.2019 and the other circumstances noted above are sufficient to tilt the balance in favour of the present petitioner for grant of bail.

10. In so far as the presence of petitioner during remaining trial is concerned, the same can be ensured by imposing conditions by this Court.

11. 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 on his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the trial court/JMFC/ Duty JM and further subject to the following conditions:

a) Petitioner shall intimate the Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.

b) Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the Investigating Officer concerned. The mobile location be kept on at all times.

c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the, witnesses or any family members of the witnesses.

d) Petitioner shall provide his permanent address to Investigating Officer concerned and shall not change the same without prior intimation to him.

12. It is clarified nothing mentioned above shall be construed as



expression of opinion on the merits of the case.

13. The petition stands disposed of in the above terms.

14. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.

15. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

JANUARY 28, 2025

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