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

+ **BAIL APPLN. 4809/2024**

SUMIT

.....Petitioner

Through: **Mr. Samyak Gangwal, Advocate**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Manoj Pant, APP for the State**

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

08.05.2025

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1. By way of this application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 66/2020, registered on 05.06.2020, at Police Station Janakpuri, Delhi.
2. Briefly stated, the facts of the present case, as per prosecution, are that a PCR call was received at P.S. Janakpuri on 04.02.2020 that one Gagandeep had been admitted in Mata Chanan Devi Hospital, Janakpuri in injured condition. On investigation, it was found that the victim had been taken to the hospital in injured condition. Gunshot wounds were found on the injured's body and it was reported that two bullets were still inside the body, one in the head and second in the back. Initially, a case under Section 307 of Indian Penal Code, 1860 [hereafter 'IPC'] was registered and the investigation was carried out.
3. During the course of investigation, it was revealed that the victim was



in a relationship with one Mohini, who was earlier in a relationship with the present accused/applicant. It is the case of the witnesses and the prosecution that since the applicant herein was jealous of her relationship with the victim, he was constantly following them as well as threatening them with dire consequences. It is the case of the prosecution that the victim was shot at on 04.02.2020 by the applicant Sumit alongwith his cousin Tushar @ Aniket with the help of country made pistols. Two empty cartridges were later recovered from the place of incident at the instance of the accused persons and were seized and taken into police possession through a seizure memo. Unfortunately, on 11.02.2020, the victim had succumbed to the injuries and Section 302/34 of IPC and Sections 25/27/54/59 of Arms Act were added to the present FIR. After completion of investigation, chargesheet was filed against the accused persons. The matter is presently at the stage of recording of prosecution evidence.

4. The learned counsel appearing on behalf of the applicant argues that the case is based on circumstantial evidence and there is no eye-witness in the present case. He argues that though the place of occurrence is a busy place, there is no CCTV footage seized by the police which can show the presence of applicant at the place of incident. It is also argued that the applicant herein has no criminal antecedents, and he has been in judicial custody for about 5 ½ years. The learned counsel further contends that the material witnesses in this case have not supported the case of prosecution, including PW-1 Mohini. He has also pointed out certain contradictions in the testimonies of the witnesses. The learned counsel further states that mother of the deceased has, in her testimony, in fact suspected the complainant Mohini to have been involved in the commission of offence. It



is further submitted that the applicant has been released on interim bail on three occasions, and he had surrendered always on time. He, therefore, prays that regular bail be granted to the accused/applicant herein. In this regard, he also points out the case laws and states that in many cases under Section 302 of IPC, the accused persons have been released on bail where the period of incarceration is less than the one which the applicant herein has suffered.

5. The learned APP for the State, on the other hand, argues that though it is not denied that the present case is based on circumstantial evidence, the circumstances and scientific evidence collected during investigation points out towards involvement of the present accused/applicant. He states that the weapon of offence has been recovered at the instance of both the accused persons as well as empty cartridges were recovered from the spot and bullets recovered from the body of the deceased, which was sent for FSL opinion, have supported the prosecution case. He also argues that during investigation, it was found that a phone call had been received from phone number 8376033559 to threaten the sister of Mohini on her phone number 8368480406. In this regard, the learned APP for the State argues that the present applicant had refused to give his voice sample, which be held against him, at this stage; whereas Mohini's sister had given her voice sample and the auditory analysis of audio recording has supported the case of prosecution. The learned APP for the State further submits that since out of 37 witnesses, 17 witnesses have been examined and the trial will conclude shortly, the present bail application be rejected.

6. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

7. Having heard arguments and gone through the case file, this Court



notes that the deceased in this case was in a relationship with PW-1 Mohini, with whom the present applicant had also remained in relationship in past. Though the learned counsel for the applicant contends that PW-1 Mohini has not supported the prosecution case and has turned hostile, the testimony produced before this Court does not reflect so. However, this Court will not go into the details of the testimony at this stage, since it may adversely affect the trial and the case of accused also. Suffice it to say, it appears that PW-1 Mohini has supported the prosecution case, *prima facie*, on material aspects. Further, PW-16 Shalini, to whom the applicant herein had allegedly made a call to and had told that '*main uss sardar ko maar dunga, agar usse Mohini mili ya baat ki*', has also supported the prosecution case.

8. This Court has also taken note of the fact that while this was alleged by PW-16 Shalini (sister of Mohini), at the stage of investigation itself, that she had received a phone call from the present accused/applicant and the applicant had told her that "*main uss sardar ko maar dunga, agar usse Mohini mili ya baat ki*", the applicant herein during investigation had refused to give his voice sample. When the voice sample of Shalini was sent to FSL for examination, the same had matched with her voice in the alleged voice recording. Further, certified copies of the CDR and ownership records of the mobile number of Shalini, on which she had received the threatening call from present accused, had been obtained by the police and filed by way of supplementary chargesheet. Thus, the FSL report i.e. auditory analysis of audio recording supports the case of prosecution.

9. Moreover, two empty cartridges had been recovered at the instance of accused persons from the place of incident and the weapon of offence was also recovered from the accused persons including the present applicant. The



FSL report in this regard was received, in which it was opined that *“recovered empty cartridge alongwith bullet(led) recovered from the body of deceased have been fired with the recovered weapon of offence which were sent to FSL”*, which supports the case of prosecution.

10. Therefore, considering the statements of the witnesses recorded before the learned Trial Court and the discussion made in preceding paragraphs, this Court does not find it a fit case for grant of regular bail at this stage.

11. Accordingly, the present application for grant of regular bail stands dismissed.

12. However, it is directed that since the accused herein is in judicial custody for more than five years, the learned Trial Court will make every endeavour to conclude the trial in this case, within seven months, subject to the condition that neither of the parties will seek unnecessary adjournments, in this case.

13. A copy of this order be forwarded to the learned Trial Court for information and compliance.

14. It is, however, clarified that nothing expressed hereinabove shall be tantamount to an expression of opinion on the merits of the case, and the Trial Court shall remain uninfluenced by the same.

15. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 8, 2025/ns

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