

CNR No. : DLNT01-008666-2022
SC No. : 744/2022
STATE Vs. ASHISH @ ASHU ETC. (Rohit)
FIR No. : 186 /2022
PS Bawana
U/s. 302/34 IPC

16.12.2022

This application U/s. 439 Cr. P. C for grant of bail moved on behalf of applicant/accused **Rohit**.

Present: Sh. Sanjay Jindal, Id. Addl. PP for the State.
Sh. C. M. Sangwan, Ld. counsel for applicant/accused.
SHO/Inspector Rakesh Yadav along with IO/SI Rinku Bhakar are in person.

Reply to the bail application has been filed by the IO

Ld. counsel for applicant/accused submits that applicant/accused is in JC since 26.05.2022 and he has been falsely implicated in the present case. It is further submitted that there is no evidence against the applicant/accused on record and the entire story of the prosecution is based on the circumstantial evidence. It is further submitted that FIR was registered on the statement of Sachin @ Sahil, who is not an eye witness, as per which Anshul and one more person (Ajay) had fired shots at deceased Chirag, but on the next day itself, he changed his version by way of supplementary statement and named the applicant/accused as well as one Ashish @ Ashu Valmiki who had shots at deceased Chirag. He has further submitted that police officials were present at the spot but they did not take any action against the accused and have not recorded his statement on the spot. He has further submitted that the police officials have recovered two DVRs from one Ravi and Devender in order to collect the alleged CCTV footage but they have not been cited as a witness by the police and even their statement were not recorded by the police officials. He has further submitted that applicant/accused is not visible in the alleged

CCTV footage collected by the police. He has further submitted that the alleged CCTV footage and DVR have already been sent to the FSL for examination and the FSL result is yet to come. It is further submitted that the statement of the owner of the CCTV Camera was also not recorded and also no certificate u/s 65 B of the Indian Evidence Act was taken and his sign was also not taken on the seizure memo. He has further submitted that when police officials reached the hospital complainant Sahil was not found in the hospital. Ld. counsel further submitted that complainant Sahil had told that he had taken the victim to the hospital but no blood stain was found on his clothes. Ld. counsel further submitted that no other independent eye witness was found at the spot. Ld. counsel further submitted that applicant/accused has surrendered himself. He has further submitted that no recovery was effected from the applicant/accused. He has further submitted that applicant/accused belongs to the same locality hence, there is possibility of his visibility in the CCTV footage and CDR record, but that does not make a case against him. Hence, he has prayed for grant of bail.

He has relied upon the judgment of Hon'ble High Court of Delhi in the case of ***Mohd. Arif v. State, 03.09.2021, Bail Appln. 774/2021 and Crl. M.A. 9357/2021.***

On the other hand, Ld. Additional PP for State has strongly opposed the bail application and submits that allegations against the applicant/accused are serious in nature. It is further submitted that in the CCTV footage the present applicant and co-accused Ashish are clearly seen having pistol in their hands and running after the deceased. He has further submitted that time gap of recording of second statement is just of few hours, so the same cannot be doubted. He has further submitted that sufficient information has

been given by the complainant in the second statement alongwith the explanation for his first statement. He has further submitted that in the statement u/s 161 Cr.P.C. witness Rakesh Raka has stated that the present applicant has come to him and asked him to join us for causing the murder of the victim(deceased). Ld. Addl. PP has further submitted that cousin brother of applicant/accused, who was the only son of his parents was murdered and in order to take the revenge he caused the murder of the victim (deceased) and prayer is made out for dismissal of the bail application.

Heard.

The submission of ld. Prosecutor that the second statement can be relied at this stage seems to be justified as the second statement was taken just after few hours and the reason for giving first statement is also mentioned therein. As per the prosecution there is CCTV footage also wherein the accused persons including the present applicant are visible and one of the accused persons is also seen with a gun. The present case is also to be seen in the background that murders have already taken place between two of the families allegedly involved in the present case. CDR is also supportive of the prosecution case. Therefore, considering the overall circumstances and the gravity of offence, **the present application is dismissed.** Bail application is disposed of accordingly.

It be tagged with the main file.

Dasti.

(Shivaji Anand)

Addl. Sessions Judge: 04 (North)

Rohini Courts: Delhi:16.12.2022^(R)