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I.A. No. 01/2022 in SC No. 216/2021
STATE VS. KRISHAN ETC.
P.S. NARELA
FIR No. 389/2021
U/s 307/12OB/34 IPC

23.07.2022

This is an application under Section 439 Cr.P.C. for grant of bail moved on behalf of applicant/accused Ashwani Khatri.

Present: Sh. Harvinder Kumar Nar, Ld.Addl. PP for the State.

Sh. Pradeep Khatri, Ld. Counsel for the applicant/accused.

Reply to the bail application has already been filed.

1. Briefly stated, the present FIR had been registered under Section 307/12OB/34 IPC at the instance of complainant Balwan. As per the FIR, on the night of 19.08.2021 at about 10.00 p.m., accused persons including accused Aditya accompanied with co-accused Pradeep, applicant Ashwani Khatri and one Vishu were present at the place of incident and accused Aditya fired with pistol on the complainant but the pistol did not work. Applicant/accused Ashwani Khatri thereafter fled away from the spot along with other co-accused Amit Rana and upon the disclosure statement of co-accused Krishan, applicant/accused was arrested from Uttrakhand.

2. It is argued by Ld. Counsel for the applicant/accused that accused is running in JC since 21.08.2021 and has been falsely implicated in the present case merely on the disclosure statement of co-accused. That no recovery of weapon had been effected from him. That co-accused Amit Rana having similar role had been granted bail by Id. Sessions Court vide orders dated 04.10.2021 and that the main allegations of firing from pistol are only against

accused Aditya.

It is further argued that applicant was not even present at the spot and has been apprehended from Utrakhand as he was merely accompanying co-accused Amit Rana to a trip to the said place without having knowledge regarding the incident in question. That the investigation is complete and charge-sheet has already been filed. It is also argued that there is no threat perception as applicant/accused is not residing in the neighbourhood of the complainant. It is further argued that a humanitarian view be taken as minor daughter of the applicant/accused who is around 05 years, is hospitalized and there is no one to look after her or assist in surgery. That applicant/accused is ready to abide by all the terms and conditions. It is prayed that a lenient view be taken.

3. Ld. Additional PP for the State vehemently opposed the bail application submitting that the allegations levelled against the applicant/accused are very grave and serious in nature. It is further argued that the role assigned in the present case to the applicant is that he asked the driver i.e. co-accused Krishan to make a fake call regarding theft of the car. That the applicant/accused was involved in several other cases of similar nature.

4. Heard. Record perused.

5. The accused is running in JC since 21.08.2021 and investigation is complete and charge-sheet has already been filed. No further recovery is to be effected from him Co-accused Amit Rana has already been granted bail by the Ld. Sessions Court and in fact the role assigned in the present case to the applicant is that he asked the driver i.e. co-accused Krishan to make a fake call

regarding theft of the car. Co-accused Krishan is already granted by bail by Ld. Sessions Court. The main role in the alleged offence is played by accused Aditya who has aimed pistol on the complainant, as per the FIR.

6. During the course of arguments, it was argued by Id. Counsel for the applicant/accused that a lenient view be taken as the minor daughter of the applicant/accused aged 05 years is hospitalized and there is no one to look after her.

7. Seeing the totality of the facts and circumstances of the case and the fact that co-accused Amit Rana and Krishan have already been granted bail, who has been assigned similar role as that of the applicant/accused, applicant/accused **Ashwani Khatri is hereby enlarged on bail on furnishing of bail bond for a sum of Rs. 50,000/- with two sureties each of the like amount, who are permanent residents of Delhi/NCR to the satisfaction of concerned court/ Area MM/Link MM/Duty MM** but subject to the following conditions:

- (a) The applicant/accused shall attend the court proceedings regularly.
- (b) That in case of change of his residential addresses, he shall intimate the Court about the same.
- (c) The accused shall not leave the country without prior permission of the Court.
- (d) The accused shall not indulge into similar offence in the event of release on bail.
- (e) The applicant/accused shall not try to contact or influence the witnesses, in any manner, directly or indirectly.
- (g) The accused shall provide his mobile number to the concerned SHO, on which he may be contacted, if required as per law and shall ensure that the said number be kept active and switched on all the time.

Accordingly, the application is disposed off.

The concerned SHO is specifically directed to provide protection to the complainant and her family members and if any fresh complaint of threat is made in future or any of the terms and conditions as laid above flouted by the accused that would be considered as a ground for cancellation of bail, in accordance with law.

7. *It is clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.*

8. Copy of the order be given *dasti* to the Ld. Counsel for the applicant/accused as well as be sent to concerned IO, concerned Jail Superintendent, Ld. Secretary, DLSA (North), through all possible modes, as per rules.

(Shefali Sharma)
ASJ-02 /North District
Rohini Courts/Delhi/23.07.2022