

State Vs. Kunal
SC No.720/23
FIR No.390/23
PS Mangol Puri
U/s 307/120B/34 IPC

03.10.2023

Present: Sh. Vineet Dahiya, Ld. Addl. PP for the State.
Sh. Akram Sophiya, Ld. counsel for the applicant
Sh. Gajraj Singh, Ld. counsel for the complainant.
Complainant present **through VC**.
IO/SI Preet Dabas is present.

This application U/s 439 Cr.P.C has been moved seeking for bail of applicant
Reply filed. Copy supplied.

Ld.Counsel has submitted that no similar application of the applicant is pending before any other court.

Present FIR is registered on the statement of complainant Saddam Hussain who alleged that there is enmity between his family members and family members of applicant/accused due to an incident in which son of applicant/accused was murdered. On 25.04.2023 he alongwith his family were coming to his home in car bearing no. DL 12 CM 2284, Alto 800 after attending a function at Hauz Rani, Malviya Nagar. He dropped his family members in front of Durgeshwar Jewellers and went in his abovesaid car at Y Block Mosque as sometimes he used to sleep in mosque. He parked his car in front of mosque. Since the small gate of mosque was locked, he proceeded towards big gate of the mosque through the park adjacent to the mosque. At about 11:50 pm when he reached at main gate of the mosque, four persons namely Ravi @ Mussa, Salman @ Bhola, Karan @ Tamatar and Pintoo Maharaj, all

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residents of Mangolpuri, were there out of which three were on a bullet motorcycle and one was standing near bullet motorcycle. Accused Ravi @ Mussa was sitting at the front of the bike, accused Salman @ Bhola was sitting in the middle, accused Karan @ Tamatar was sitting at the last on the motorcycle whereas accused/ applicant Pintoo Maharaj was standing with them. When complainant crossed the accused persons, accused Karan @ Tamatar got off the bike, who was having pistol in his hand and started chasing the complainant. As complainant looked back, accused Karan @ Tamatar shot the bullet at complainant which missed the ear of complainant. Blood started oozing and complainant sat down. Thereafter, when all the accused persons were running from the spot, complainant also got up and running from there. On seeing the complainant, all accused persons shouted that complainant is alive and we have to take revenge the murder of our brother Arman and they all with intention to eliminate the complainant three of them on foot and one on motorcycle started chasing the complainant. When complainant reached at the gate of Y Block Park, accused Hakim and his brother Ameen were present there who threatened the complainant to kill him next time. Thereafter, complainant made a call to police.

It is submitted by Id. Counsel for applicant/accused that investigation qua applicant/accused is complete and no fruitful purpose will be served by keeping him behind the bars. It is further submitted that applicant/accused was not the actual assailant in the alleged incident. It is further submitted that there

is delay of 14 hours in registration of FIR. It is further submitted that applicant/ accused has not been convicted in any criminal case. It is further submitted that applicant/ accused is not the person who shot at complainant. It is further submitted that the allegations against applicant/ accused are of only conspiracy. It is further submitted that co-accused was present and therefore, the applicant/ accused deserves parity.

Ld. Addl. PP for the State and Ld. counsel for the complainant have opposed the bail application. It is submitted that allegations are serious. It is further submitted that applicant/ accused is a habitual offender. It is further submitted that there is every likelihood that applicant/ accused may threaten or cause any harm the complainant/ witness.

Arguments heard. Record perused.

This is a serious case U/s 307 IPC wherein applicant/ accused and his associates attempted to murder the complainant. In CCTV footage relied upon by the prosecution, applicant herein can be seen present at the spot along-with other assailants. After complainant was shot by CCL, applicant continued to hurl abuses upon him. His conduct during the commission of offence shows that he was sharing common intention with the other accused persons. The matter is at the initial stage where even charges have not been framed. Release of the applicant at this stage may lead to threatening to the witnesses. No ground is made out to release the applicant/ accused on bail. **The application is dismissed.**

It is clarified that nothing observed hereinabove shall have any bearing on the merits of the case.

**BABRU BHAN
ADDL.SESIONS JUDGE-03,
NORTH WEST DISTT,
ROHINI COURTS
DELHI/03.10.2023**