

SC NO. 147/2019
STATE VS. BABLOO @ MOHD. KAUSHAR & ANR
FIR NO. 1065/2018
PS: UTTAM NAGAR
U/S 302/307/34/174A IPC & 25/27 ARMS ACT
CNR No. DLSW01-002655-2019

23.02.2024

File taken up today on an application under Section 439 Cr.P.C moved on behalf of the applicant / accused Babloo @ Mohd. Kaushar for grant of bail.

Present: Sh. Brijesh Kumar, Ld. Addl. PP for the State.
Sh. Jai Singh Yadav, Ld. counsel for applicant / accused.
IO/SI Suresh Kumar is also present and he has filed the reply. Copy supplied.

1. It is submitted by Ld. counsel for the applicant/accused that allegations against the applicant / accused are false and baseless and applicant / accused has not committed the alleged offence. It is further submitted by Ld. counsel for the applicant/accused that PW-1 & PW-2 are the material witnesses, however, they have not supported the version of prosecution. It is further submitted by Ld. counsel for the applicant/accused that investigation qua the applicant/accused is complete and co-accused namely Dilip@Sumit has already been granted bail and hence, it is prayed that present applicant be granted bail.

2. On the other hand, Ld. Addl. PP for the state has argued on present application and strongly opposed the same.

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3. The record reveals that the present applicant / accused is facing trial along with co-accused Dilip on the allegations that they had committed murder of one Azad and the present applicant / accused had fired from a pistol against Javed. It is a matter of record that matter pertains to the year 2018 and till date, only two witnesses have been examined. The record further reveals that the PW-1 Sh. Shehnawaz & PW-2 Sh. Javed (who is also one of the injured) are the material witnesses in the present case, but neither they have supported the case of the prosecution nor identified the accused persons in the Court and even they were also cross-examined by Ld. Addl. PP for State but nothing could come in his examination to support the case of the prosecution. PW-1 has specifically deposed in his cross-examination that present accused had not fired upon Javed and Azad. PW-2 has specifically deposed in his cross-examination that the person who are present in the Court were not involved in the incident. Other witnesses are not the eye-witnesses. The record reveals further reveals that the present applicant/accused is languishing in custody since 14.11.2018. The trial of the case will take long time and is not likely to be completed in a short span of time. As far as the previous involvement of the applicant / accused is concerned (as mentioned by the IO in his report), he has been acquitted in most of the cases. Keeping in view the facts and

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circumstances of the case and in view the submissions made above, **the present application stands allowed.** The applicant / accused is hereby granted bail on furnishing bail bond in sum of Rs.25,000/- with one surety in the like amount to the satisfaction of this Court. The applicant / accused shall also attend the Court on each and every date and will not contact the other witnesses.

4. Nothing stated herein which shall tantamount to expression of opinion on merits of case and whatever has been stated is only for the purpose of deciding the present application. **Application stands disposed of accordingly.**

5. Re-notify the matter for the date already fixed i.e **20.04.2024.**

6. Copy of this order be given dasti to Ld. counsel for applicant / accused, as prayed for. Copy of this order be also sent to Jail Superintendent for information and compliance.

(Deepak Wason)
ASJ-04: South-west District:
Dwarka Courts: New Delhi
23.02.2024