

Gaurav Sharma vs State Govt Of Nct Of Delhi on 25 April, 2024

Author: Amit Sharma

Bench: Amit Sharma

\$~10

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ BAIL APPLN. 3666/2023
GAURAV SHARMA

Through:

STATE GOVT OF NCT OF DELHI

Through: Mr. Amit Ahlawat,
Insp. Ravi Kumar,
Enclave.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

% 25.04.2024

1. The present application, under Section 439 read with Section 482 of the Cr.P.C., seeks regular bail in case FIR No. 83/2018, under Sections 302/307/120B/482/411/34 of the IPC and Sections 25/27/54/59 of the Arms Act, 1959 registered at Police Station Maurya Enclave.

2. The case of the prosecution as per the status report dated 16.01.2024 authored by Insp. Mukesh Kumar, SHO, PS Maurya Enclave is as under:-

"1. Most respectfully submitted that the brief facts of the case are that on 16.3.2018 case FIR No. 83/2018 u/s 302/307/120B/34 IPC and section 25/27 Arms Act was registered at Police Station Maurya Enclave, Delhi on the statement of Sh. Digvijay Saroha. In his statement, he stated that in the year 2014 a case FIR No.401/2014 U/s 307/34 IPC was registered at Police Station Alipur, Delhi and Jitender Gogi, Kuldeep @Fazza, Yogesh @ Tunda, Gulshan @ Gulu, Jamail @ Jelly and Monu Maan @ Nepali were named. The said case was under trial in Rohini court, Delhi. On 16.3.2018 he and his friend Monu had come to Rohini court to attend This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC

Server on 26/04/2024 at 02:34:55 the said case. After the hearing, the case was adjourned for 23.5.2018. In the said case Yogesh @ Tunda and Gulshan (@ Gullu had appeared from jail. Jamail @ Jelly has already been killed in police encounter and Jitender @ Gogi and Kuldeep @ Fazza were absconding. The Father of Yogesh @ Tunda namely Rajender had also came to the court to meet his son. After the hearing, the complainant, Monu Maan @ Nepali and Rajender reached at the shop of Pandit Ji Kulcha Wala, RU-Block, Pitampura, Delhi. They all three were sitting on the last table near kitchen. The complainant and Rajender were facing towards the kitchen while the face of Monu Maan was towards Ring Road. When they started eating. Monu saw Amit @ Dabang while looking towards Ring Road. Monu @ Dabang was standing there with 4-5 boys. On seeing the said persons, Monu escaped from the other door of the shop towards Pitampura. Seeing this, Amit @ Dabang and his associates started following Monu Maan. When he came out of the shop, he noticed that Amit @ Dabang and his associates were firing upon Monu Maan near a Pan shop due to which Monu Maan fell down. Thereafter Amit @ Dabang and his associates continued firing upon Monu Maan, due to which Monu Maan died at the spot. The complainant further stated that for the last several years there was a gangwar between the gangs of Jitender @ Gogi and Sunil @ Tillu and he is confident that his friend Monu Mann has been murdered due to the said gang war by the members of Sunil (@ Tillu gang. Further, it was learnt that the owner of Pan Shop has also received gunshot injuries in the said firing and he has been admitted to Muni Maya Ram Hospital, Pitampura, Delhi. Thereafter, police team reached the said hospital and obtained MLC of one Sandeep, owner of the said Pan shop wherein doctor has mentioned alleged history of gunshot injury on the back region.

2. That after registration of the case, the investigation was carried out. During the course of investigation, statements of witnesses were recorded and evidences were collected. That during the course of investigation (1) Mohit @ Rohit @ Monu S/o Rajesh R/o Vill- Bhaktawarpur, Delhi (2) Gaurav Sharma (@ Golu S/o Om Prakash R/o H. No. 480/34 Janta Colony Rohtak Haryana (3) Deepak @ Sonu S/o Mahavir Singh R/o Vill- Pakasma P.S Sanpla Distt. Rohtak Haryana (4) Naresh @ Sonu S/o Swrat Singh R/o Vil-Tajpur Delhi (5) Umesh @ Kala Slo Bijender R/o Vill Tajpur, Delhi (6) Sandeep @ Dhillu s/o Inder singh R/o Jasor Kheri Jhajjar Haryana (7) Amit @ Dabang S/o Ram Kumar R/o Vill- Tajpur Delhi were arrested and one CCL was apprehended. The fire arm used in crime was recovered at the instance of petitioner. He along with his associates is also seen in C.C.T.V. footage This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/04/2024 at 02:34:55 captured by camera installed at another shop i.e. Sardar Ji Amritari Kulcha, near the scene of crime. Earlier to this petitioner was arrested in case FIR No. 43/2018 under section 25 Arms Act by Special Cell. During interrogation, the petitioner disclosed his involvement in the present case. After the

completion of investigation of present case, charge sheet U/s 302/307/120B/34 IPC and 25/27 Arms act was tiled against Petitioner.

3. That the case is pending trial before the Court Delhi and 8 witness out of 61 have been examined. The complainant had supported his version before the Ld. Trial court during his testimony. The case is at the stage of prosecution evidence and next date of hearing is fixed for 02.03.24.

4. That it is further mentioned that petitioner is a member of notorious gang headed by gangster Sunil @Tillu and Sandeep Dhillu who was declared PO in the present case and was carrying reward of lacs on his arrest. He has been arrested on 19-05-2021 by Special Cell, Delhi in MCOCA Act. The Petitioner is involved in number of criminal cases including murder, attempt to murder, extortion, hurt, threat and arms act. (List annexed herewith)."

3. Learned counsel appearing on behalf of the applicant submits that learned Trial Court has granted bail to two of the co-accused persons, namely, Naresh @ Sonu and Mohit @ Monu vide orders dated 14.09.2022 and 31.01.2023 respectively. It is submitted that the aforesaid Naresh@ Sonu has been assigned the role of shooting at the deceased by the eye- witness PW-4, namely, Digvijay and the role of the present applicant, is that he was present at the spot while the other co-accused were shooting at the deceased and he was holding the pistol in his hand. It is submitted that learned Trial Court while dismissing the bail application of the applicant has observed that the pending cases against him were serious in comparison to the other co-accused persons who have already been granted bail by the learned Trial Court. Learned counsel appearing on behalf of the applicant has drawn the attention of this Court to various orders passed in cases against the present applicant. It is pointed out that as of now the applicant This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/04/2024 at 02:34:56 apart from the present case is facing trial in case FIR No. 41/2018, under Sections 186/353/332/307/224/225/120B of the IPC and Sections 25/54/59 of the Arms Act, 1959, registered at P.S. I.P. Estate, Delhi and is on bail in the said case.

4. Per contra, learned APP for the State, on instructions from the Investigating Officer, has placed on record a status report dated 29.02.2024 showing previous involvements of the present applicant. It is also stated in the said status report that the applicant is associated with a gang led by Sunil @ Tillu. It is further submitted that there is apprehension of the present applicant jumping the bail.

5. Heard learned counsel for the parties and perused the record.

6. Admittedly, the aforementioned Naresh @ Sonu has been assigned the role of shooting the deceased and has been granted bail by the learned Trial Court on 14.09.2022 and as a matter of record the said order has not been challenged by the prosecution till date. It is also noted that the public witnesses in the present case have already been examined. So far as the affiliation of the

present applicant with the gang led by Sunil @ Tillu is concerned, on a pointed query from the Investigating Officer, it is submitted that the same is alleged on the basis of a disclosure statement of co-accused. In the status report filed by Insp. Madan Lal Meena, SHO PS Maurya Enclave, Delhi on 29.02.2024, the status of the pending cases against the present applicant has been shown wherein it is reflected that the present applicant is facing trial in one case, as aforementioned, in FIR No. 41/2018, under Sections 186/353/332/307/224/225/120B of the IPC and Sections 25/54/59 of the Arms Act, 1959 registered at P.S. I.P. Estate, Delhi. The Nominal Roll dated 16.01.2024 reflects that the applicant has been in This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/04/2024 at 02:34:56 custody since 25.05.2018 and as on 15.01.2024, he has been in judicial custody for a period of 5 years 7 months and 21 days. Nominal Roll further reflects that, as mentioned hereinabove, the applicant is facing trial in case FIR No. 41/2018 and is presently on bail in the said case. It is further reflected from the Nominal Roll that the applicant was sentenced to the period already undergone in case FIR No. 289/2018, under Section 174A of the IPC, registered at P.S. Sampla, Rohtak, Haryana on 31.07.2019. The prosecution has cited 61 witnesses out of which 8 have been examined.

7. In view of the fact that the co-accused in the present FIR who is stated to be the person who fired shots at the deceased has been granted bail by the learned Trial Court, this Court is of the considered opinion that the present applicant may also be released on bail.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 1,00,000/- with two sureties of like amount, one of whom shall be family member of the applicant, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave the NCT of Delhi without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/04/2024 at 02:34:56 Investigating Officer and keep it operational at all times. v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

vi. The applicant shall report at the office of SHO, PS Maurya Enclave concerned once in a week, i.e., on every Friday at 04:00 PM and the concerned officer is directed to release him by 05:00 PM after recording his presence and completion of all the necessary formalities.

9. The application is allowed and disposed of accordingly.

10. Pending applications, if any, also stand disposed of.

11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.

12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

13. Order be uploaded on the website of this court forthwith.

AMIT SHARMA, J APRIL 25, 2024/sn Click here to check corrigendum, if any This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/04/2024 at 02:34:56