

Vivek Puri vs State on 30 October, 2023

Author: Amit Sharma

Bench: Amit Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 194/2023
VIVEK PURI

STATE

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

% 30.10.2023

1. The present application under Section 439 of the CrPC seeks regular bail in case FIR No. 66/22 under Sections 186/353/307/34 of the IPC and Sections 25/27 of the Arms Act registered at PS Special Cell.

2. Learned APP for the State has handed up in Court, a status report dated 20.10.2023 authored by Sh. Attar Singh, Assistant Commissioner of Police, Special Cell/SR, Saket, New Delhi. The same is taken on record.

3. The case of the prosecution is that while tracking the movements of members of Lawrence Bishnoi, Kala Rana and Kala Jathedi gang allegedly involved in various offences, on 31.03.2022, specific information was received about movement of three persons in a Scorpio Car to meet their contacts near Budha Jayanti Park, Simon Bolivar Marg, towards Chanakyapuri, Delhi. Acting on the said information, a team of police 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 30/10/2023 at 21:42:49 personnel intercepted the car and asked the three persons, including the applicant to surrender. However, the applicant and co-accused Prashant took out their pistol and began firing towards the police team. One bullet hit SI Sumit, who was saved because of the bullet-proof jacket. All the three persons were eventually overpowered by the police party and disarmed.

4. It is further the case of the prosecution that the applicant and co-accused Prashant had fired 02 rounds and the police team had fired 01 round in self defence. Three semi-automatic 0.32 bore pistols and 13 live cartridges were recovered from the accused persons, out of which one semi-automatic 0.32 bore pistol and 05 live cartridges were recovered from the applicant. Three empty shells were also recovered. The arms and ammunition and the car were seized. Accordingly, the accused persons, including the applicant were arrested on 01.04.2022 and the present FIR was registered under Sections 186/353/307/34 of the IPC and Sections 25/27 of the Arms Act.

5. Learned counsel appearing on behalf of the applicant submits that the latter has been falsely implicated in the present case. It is submitted that as per the FIR, it is not the specific case of the prosecution that the applicant fired at the police party. It is submitted that the applicant, in fact, was picked up by the police from Mohali, Punjab and then falsely implicated in the present case. He was not present at the spot on the date of incident. It is further submitted that the FIR is also silent on whether or not the secret informer had specifically named the applicant. It is submitted that the information on the basis of which the accused persons have been arrested only discloses the details of a car. There was no specific information about exactly who would be present in the said car and whether they would be This is a digitally signed order.

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6. It is further submitted that the applicant did not make any attempt to flee from the spot. It is submitted that the applicant was arrested on 01.04.2022 and has been in judicial custody since 07.04.2022. It is submitted that the investigation in the present case is complete, the chargesheet stands filed and no useful purpose will be served by keeping the applicant in judicial custody any further. It is further submitted that the FSL report is still awaited and the trial is not proceeding.

7. Per contra, learned APP for the State opposes the present application and submits that in his disclosure statement, the applicant admitted his involvement with the gang of Lawrence Bishnoi. It is further submitted that the applicant was apprehended at the place of incident and a pistol and 05 live cartridges were recovered from him. It is further submitted that the fact that one of the bullets fired by the accused persons had hit a police officer cannot be lost sight of. Learned APP for the State further submits that the applicant herein is an accused in other cases of a similar nature registered in States of Haryana and Bihar. It is submitted that the applicant is a flight risk and should not be given the benefit of bail. Details of the said cases are as under:

i. FIR No. 88/2017 under Sections 399/402/414 of the IPC and Sections 25(1B)(a)/26/35 of the Arms Act registered at PS Hathua, Gopalganj, Bihar.

ii. FIR No. 87/2017 under Sections 379/411 of the IPC registered at PS Hathua, Gopalganj, Bihar.

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iv. FIR No. 72/2019 under Sections 25/54/59 of the Arms Act registered at PS Ambala Cantt. GRP, Haryana.

v. FIR No. 358/2021 under Section 387 of the IPC and Section 27 of the Arms Act registered at PS Hathua, Gopalganj, Bihar. vi. FIR No. 26/2022 under Sections 385/387 of the IPC and Section 27 of the Arms Act registered at PS Hathua, Gopalganj, Bihar.

8. Learned APP for the State further submits that pursuant to communication sent regarding expediting the FSL result, response dated 22.09.2023 has been received from Ms. Deepa Verma, Director, FSL stating that the FSL report in the present case shall be ready by 05.12.2023.

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

10. The allegations against the applicant are serious. He was apprehended at the spot and a semi-automatic 0.32 bore pistol and 05 live cartridges were recovered from him. There is nothing on record to disbelieve the case of the prosecution at this stage. The applicant is involved in other serious cases in States of Haryana and Bihar. This further strengthens the apprehension of the prosecution that the applicant is a flight risk.

11. In view of the aforesaid facts and circumstances, this Court is not inclined to allow the present application.

12. The application is accordingly dismissed at this stage and disposed of.

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

14. Needless to state, nothing stated hereinabove is an opinion on the merits of the case.

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

16. Order be uploaded on the website of this Court, forthwith.

AMIT SHARMA, J OCTOBER 30, 2023/nk This is a digitally signed order.

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