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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 31.08.2020

+ BAIL APPLN.1916/2020 & CRL.M.(BAIL) 7738/2020

SHAHJAD Petitioner

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Dhan Mohan Mishra, Ms. Tanu B. Mishra and
Ms. Mahima Gauta, Advocates.

For the Respondent: Ms. Kusum Dhalla, APP.

CORAM:-

HON'BLE MR JUSTICESANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks regular bail in FIR No.477/2019 under Sections 302/120B/34 IPC read with Section 27 of the Arms Act, Police Station Bhajan Pura.
3. Subject FIR was registered on the statement of the duty officer, Police Station Geeta Colony stating that he along with a head constable had gone to apprehend an accused in FIR No.253/2019. In police custody said accused confessed that he along with another

accused had on 13.09.2019 shot one person by the name of Nazim Hussain.

4. As per the Status Report, information was received on 14.09.2019 that one person was shot with 4-5 bullets and he had expired. Statement of one witness was recorded and he disclosed that the deceased was having a dispute with one Mohsin @ Vicky @ Shooter, s/o. Abdul Rashid and Nadeem, s/o. Fazil and they had threatened the deceased. Another witness also confirmed the same.

5. The wife of the deceased also stated that when she was returning from the market she saw a country made pistol in the hand of Mohsin @ Vicky and Nadeem was carrying a bag and they were trying to escape and when she reached near her house she saw that her husband was shot with 4-5 bullets and was in an unconscious state.

6. Petitioner was arrested on 28.09.2019. As per the charge sheet Nadeem and Mohsin were absconding and steps were on to trace their whereabouts. During said time one head constable of Police Station Bhajan Pura produced the petitioner before the Investigating Officer contending that petitioner had disclosed to him that he had informed about the whereabouts of the deceased some time before the incident to Mohsin and Nadeem.

7. Status report further states that as per the call detail records of the petitioner as well as Mohsin and the deceased, they were in touch with each other before the incident.

8. Learned counsel for the petitioner submits that there is no material to connect the petitioner with the subject offence. He further submits that merely because there was call connection between the petitioner and the co-accused and petitioner and the deceased does not indicate as to what conversation had taken place between them. He submits that all of them are resident of the same locality and are known to each other.

9. He further submits that the alleged disclosure statement amounts to a confessional statement and is inadmissible in as much as nothing was recovered consequent to the alleged disclosure statement.

10. He further submits that the transcript of the conversation between the petitioner and co-accused and petitioner and the deceased has not been produced and relied upon by the prosecution and there is no connection of the petitioner with the alleged offence.

11. Learned counsel further submits that there is no material placed on record by the prosecution to show any meeting of minds or conspiracy in so far as the alleged offence is concerned.

12. Without commenting on the merits of the case and keeping in view the facts and circumstances and also the fact that petitioner has been in custody for nearly a year and the only evidence against the petitioner is purely circumstantial, I am of the view that petitioner has been able to make out a case for grant of regular bail.

13. Accordingly on petitioner furnishing a bail bond in the sum of

Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Trial Court, petitioner shall be released on bail. Petitioner shall not do anything which may prejudice the trial or the prosecution witnesses. Petitioner shall surrender his passport, if any, and if not already done so, to the Investigating Officer. Petitioner shall not leave the National Capital Territory of Delhi without prior intimation to the concerned Trial Court.

14. Petition is allowed in the above terms. All other applications are consequently disposed of.

15. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

AUGUST 31, 2020

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SANJEEV SACHDEVA, J.

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