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

% *Order pronounced on 11.05.2022*

+ BAIL APPLN. 3713/2021

NAVED Petitioner

Through: Mr. Juned Alam, Advocate.

versus

THE STATE Respondent

Through: Mr. Tarang Srivastava, APP with SI
Suman Prasad, PS Sarai Rohilla.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The petitioner has filed the present petition for grant of regular bail in case FIR No. 210/2020 under Section 186/353/307/147/148/149/379/34 IPC, registered with PS Sarai Rohilla, Delhi.
2. It has been submitted that the petitioner was arrested on 13.06.2020 in a false and fabricated case registered at Police Station Sarai Rohilla, where he had gone to lodge an FIR against the complainant of this case and his associates.
3. The brief facts are that on 10.06.2020 at about 8:30 PM SI Pankaj Thakran/complainant was present in Police Post Inderlok when one person, namely, Kale met him in the said Police Post and made complaint against Mohsin, Salman, Naved etc., about the loot in his shop and Kale being beaten up by these persons. One Sadeqin was brought to the Police Post, where SI Pankaj Thakran made some formal enquiry and in the meantime, Mohsin, Naved etc., reached the Police Post and they started shouting in

abusive language; SI Pankaj Thakran tried to calm them but all in vain.

3.1 The present petitioner was stated to be having pistol in his hand and others were armed with Lathi/Dande. These persons were pushed out by SI Pankaj Thakran alongwith the help of other police officials but they again came back and started pelting stones at Police Post and SI Pankaj Thakran was hit by one stone and then SI Pankaj Thakran fired with his government pistol and during that period applicant also fired from his pistol. Thereafter SI Pankaj Thakran took out an AK-47 rifle lying in his office and seeing this, all accused persons fled away from there and at that time another shot was fired. SI Pankaj Thakran was admitted to hospital.

3.2 On 11.06.2020 the present FIR was registered on the statement of SI Pankaj Thakran. The present accused was arrested on 13.06.2020 and since then he is behind the bars. The charge-sheet has been filed. The bail application moved by the petitioner was dismissed on 04.08.2021 by learned ASJ and feeling aggrieved, he has preferred the present application on the ground that he is a peace loving and law-abiding citizen of India, young in age, deeply rooted in the society and being in custody since 13.06.2020.

4. It has been submitted that on 10.06.2020 a quarrel had taken place between the Sadeqin, uncle of the applicant, and one Akhlaq, who was tenant of applicant's grandmother. Sadeqin made efforts to pacify the matter but all in vain. Calls were made on number 100 and after about an hour police officials came from Choki and took Sadeqin and Ahklaq to the police post, Inderlok where some drinks party was already going on. Without knowing the truth, SI Pankar Thakran started misbehaving and he gave beatings to all of them and on seeing this behaviour of the police, Sadeqin and Ahklaq and other people ran away from there and on this SI

Pankaj Thakran fired from his pistol two times and one bullet hit the present applicant Naved in his hand and later on police officials falsely implicated the present petitioner, his family members and relatives in this false and fabricated case to save themselves from the clutches of the law.

5. During arguments, learned APP had relied upon the CCTV footage of Police Post Inderlok stating that the present applicant was seen taking out pistol from his pocket and moving inside the police post. The case of the applicant is that he as holding a black colour mask in his hand and it was not pistol.

5.1 The FSL report relied upon by the prosecution of the analysis of the CCTV Footage shows that the applicant was holding a pistol like object, whereas the same CCTV footage when got examined from an expert from Brilliant Forensic Investigation Pvt. Ltd. shows it to be a face mask.

5.2 The petitioner has submitted that the charge-sheet has been filed in the case, he is in custody since 13.06.2020; the trial of the case is not likely to be completed in the near future; he himself suffered a gun short injury in the incident and the charge-sheet is silent about the same. His repeated applications before the District Courts have been dismissed. The family of the applicant is regularly being harassed by the local police. The police officials have links with anti-social elements, which has resulted in registration of the present FIR. Sharukh, Mohd. Askeen, Sadeqin, Arif, Salman Khan, Mohsin Khan, Iman-ur-rehman, Fardeen and Mohd. Umar were co-accused of the present applicant and they have been granted bail at different stages. The petitioner belongs to respectable family and he has deep roots in society and there is no likelihood of him jumping the bail and tampering with the evidence. Nothing incriminating was recovered from the

possession of the applicant. All the witnesses are police officials except two doctors and one Akhlaq, who is the complainant of case FIR No. 211/2020, so there is no question of tampering with the evidence and the petitioner undertakes to abide by the terms and conditions to be imposed by this Court.

6. Notice was issued. Status report was filed in which the police version has been repeated and it has been specifically mentioned that it was the present applicant, who fired the gun shots at the police party but the police staff was able to save them with great difficulty. During the incident, SI Pankaj Thakran, who was the in-charge of the police post Inderlok was badly injured and he had sustained severe head injury. Accused/applicant was carrying fire arm, when he entered the Police Post. He was stopped by SI Pankaj Thakran but he managed to escape from the premises of the Police Post and when SI Thakran tried to caught hold of the present applicant, his other associates started pelting stones and attacked the Police Post staff. The said Police Post was attacked using Lathis/Dandas and illegal arms.

6.1 During investigation, 10 accused persons have been arrested. The present bail application has been opposed on the grounds that the applicant is the person, who is clearly visible in the CCTV footage carrying the illegal weapon and he had fired shot at the police party. The said illegal weapon was recovered at the instance of his co-accused Salman. The FSL report has verified the video showing present applicant holding a pistol/Katta/revolver in his hand. The FSL result from the Ballistic division has been received, conducted from the swab marked as exhibit 'HSI', which was taken from the upper portion of the right hand of the present applicant. He was part of an unlawful assembly and had attempted to commit murder by opening fire at police staff. The petitioner is stated to be a bad character of Police Station

Sarai Rohilla and had been involved in many criminal cases. There is likelihood of him influencing or intimidating the witnesses.

6.2 Further Status Report was filed in response of the order dated 20.12.2021. The present petitioner was admitted to hospital on 10.06.2020 due to gun-shot injury and he was discharged on 13.06.2020 when FIR No. 211/2020 under Section u/s 394/427/506/34 IPC PS Sarai Rohilla was registered against him and he was arrested in the said FIR. Thereafter the petitioner was arrested in the present case being FIR No. 210/2020.

6.3 The incident regarding gun-shot injury has been detailed that after firing from his illegal weapon, the petitioner alongwith his associates had gathered in the street which was totally dark and suddenly he got a bullet injury in his left hand and thereafter while running from there he handed over the mobile snatched from Chowki and the illegal weapon to his uncle Salman and he was taken to the hospital by his another uncle Aashqin.

7. I have heard arguments.

8. The petitioner is stated to be involved in a case where he is accused of attacking the Police Post and firing at the police officials from an illegal weapon, which was later on recovered at the instance of his co-accused. The FSL report filed on record supports the version of the police that the petitioner was holding a fire-arm which was used. It is true that the petitioner has also filed on record an expert opinion that what he was holding in his hand was merely a face-mask and not a fire-arm. This fact will be tested in trial at the appropriate stage but, *prima facie*, the FSL report shows that the accused/applicant was holding a fire-arm in his hand.

8.1 The complainant in the present case is SI Pankaj Thakran, who was the Chowki In-charge. It is a case where a public servant is the complainant,

whose place of posting i.e. the Police Post was attacked by a group of people, who were armed with Dandas, Lathis and the present petitioner was holding a fire-arm in his hand. The Police Post is a place where people go to lodge complaints of the disputes amongst them and it is not a place where the public servants are supposed to be attacked with fire-arms, Dandas and Lathis or by pelting stones on them.

8.2 The defence of the present applicant can be proved at the time of trial. There is previous history of the present petitioner being involved in criminal cases. The police officials were doing their duty. Apparently, there was no instigation on their part and it was in the nature of disputes between two parties but instead of settling the said dispute, the present applicant and his associates chose to attack the police party itself. The possibility of present petitioner indulging in threatening the witnesses or indulging in the same crime again and fleeing from justice cannot be ruled out at this stage.

9. SI Pankaj Thakran, who was the main target of the attack by the present petitioner and his associates had sustained severe injuries. In my view it is not a fit case to grant bail to the petitioner even on the ground of parity as the role assigned to the present petitioner is quite different from his other associates who had already been released on bail.

10. This Court is not inclined to grant bail to the present applicant, at this stage. The bail application is accordingly dismissed.

TALWANT SINGH, J

MAY 11, 2022/mr

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