



2025:DHC:7200



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 18.08.2025*+ **BAIL APPLN. 2304/2025**

SUSHANT RAJ

.....Petitioner

Through: Mr Gautam Khazanchi, Ms
Aditi Kukreja and Mr Ayush
Sachan, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with Ms.
Puja Mann and Mr.
Chandrakant, Advocates

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J. (ORAL)**

1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing No.130/2018, registered at Police Station Mandir Marg, New Delhi for the commission of offences punishable under Sections 307/506 of the Indian Penal Code, 1860 (hereafter '*IPC*') and Sections 25/27/54/59 of the Arms Act, 1959.

2. The FIR in this case was registered on the statement of Sh. Ram Gopal alleging that his sister Pinki had been shot at by her



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husband i.e. present accused near Kalawati Saran hospital, Gate No.5 and she had been admitted in an injured condition, in the said hospital. During investigation, the statement of the victim revealed that she works as Security Guard in Lady Hardinge Kalawati Hospital. After her marriage to the present accused, she had come to know that he was involved in criminal activities and had been sent to jail in the year 2015. She therefore did not want to live with him. After he had come out from the jail, he had forced her to live with him but she had refused, due to his criminal activities. He had on her refusal, threatened to kill her. On 24.11.2018, while she was on duty at NN Ward in the hospital, at about 5:40 PM, the accused had come to the ward and had asked her to accompany him, however, when she had refused, he had waited near Gate no. 5 of the hospital. At about 10:00 PM, when, after finishing her duty, she had come out of the hospital, the accused had again met her at the gate and had taken her towards an auto, parked near the road and had forced her to sit in the auto. When she had refused, he had forced her into the auto on the pretext that he wanted to talk to her. However, the moment she had got into the auto, he had pulled out a country made pistol and had shot her in the abdomen and had fled away from the spot. During investigation, the statement of the security guards of the hospital were recorded, who supported the prosecution case that they had seen the accused leaving the hospital with the victim and soon after, she was admitted in the hospital. The CCTV cameras installed near the Gate No.5 of the hospital also revealed the accused and the victim going towards Gate No.5.



3. The learned counsel appearing for the petitioner argues that the present case is a fit case for grant of bail since the charges in the case have been framed and substantial evidence has been recorded. It is also argued that the accused has been in judicial custody for about six years, the accused has already been divorced and has no relationship with the victim, at present. It is also argued that the applicant had got infuriated when the victim had refused to accompany him and in heat of the moment, had shot at her, but he did not have intention to kill her. He argues that in case he wanted to murder her, he would have shot her before speaking to her. He further states that he had fired only one shot and the bullet had hit her in heat of the moment, but he had not taken undue advantage of the situation and had not fired a second shot, which proves that he did not have intention to kill her. He does not dispute that the victim was discharged from the hospital after one month and she had undergone four surgeries.

4. The learned APP for the State on the other hand argues that the allegations levelled in this case are very serious in nature. He had shot at his wife on her refusal to accompany him, as he used to beat her after consuming alcohol as has been deposed by her and due to his criminal activities and he being jailed for several criminal offences. It is stated that he had shot at her from close range with the weapon of offence for which he had no licence. He also argues that out of 32 witnesses, 24 witnesses stand examined and that the trial is likely to conclude shortly and all the prosecution witnesses have supported the prosecution case. Therefore, the application for grant of



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bail be rejected.

5. This Court has **heard** arguments addressed on behalf of the parties and has perused the material available on record.

6. After hearing arguments and going through the case file, this Court is of the opinion that the learned counsel for the petitioner in the bail application itself mentions and argues that the petitioner had shot at the victim as he was angry and infuriated on the refusal of the victim to accompany him to the matrimonial home, and it was at the spur of the moment and in heat of passion that he had shot at her. He also argues that the fact that he had fired only once and not twice and that he had spoken to her before firing at her shows that he was angry with her on her refusal to live with him being her husband. He states that at best, the offence in question can be Section 308 of IPC and not Section 307 of IPC.

7. Claim of or plea of being angry as a husband on refusal of wife to accompany him to the matrimonial home brings to surface the patriarchal entitlement that a person feels entitled to, which this Court cannot support. The learned counsel for the accused had also submitted that the refusal of the wife to accompany him had suddenly provoked him and in a fit of anger, he had shot at her, however, this Court finds the plea unacceptable at this stage. Mere refusal of the victim/wife to accompany the accused would not constitute sudden provocation. The intent of the argument that the marital disobedience by the wife had provoked the husband to have tried to kill her has to be met with the finding and assertion by this Court that assertion of



the wife to not to be subjected to domestic violence cannot justify violence by a husband. The argument that the petitioner had not fired a second shot is immaterial since one shot from a country made pistol from a closest range and his act of running away from the spot, leaving her bleeding shows that he had fired from close range on the vital part of the body, he had carried a pistol with him, had waited at the gate for her to return back from her duty, thereby defeating the argument of absence of pre-mediated attack.

8. The record reveals that in the year, 2018 after the accused was released from jail, he had started threatening the victim to accompany him or he will kill her. The statement recorded in this regard, is already a part of the Trial Court Record. Further since he had also contracted AIDS, she did not want to live with him. However, the accused was insisting and threatening her continuously on her refusal to stay with him. The victim in this case as *prima facie* apparent from the record had refused to live with him due to the continuous violence as used to beat her after consuming alcohol and was continuously indulging in criminal activities, had been jailed on several occasions, and had contracted AIDS due to his activities could not be taken as behaviour of a wife which could have infuriated him so as to pre-mediate to try, to kill her from a close range.

9. Thus, in the present case, the assertion by the wife of refusing to return to a violent matrimonial home has been met in the present case with extreme violence of being shot at which required her admission in the hospital for a month and four surgeries. To accept



the plea of anger at the spur of the moment would amount to legitimizing the notion of patriarchal entitlement which reduces women to subservience and even her refusal to return to violent matrimonial home is treated as provocation. Holding such a view would be not only regressive but also contrary to the intent to of the law. Offences of domestic violence of such nature where the intention is to kill are to be viewed with seriousness and the marital relationship in such cases would be treated as aggravating and not mitigating factor.

10. Section 307 of IPC provides punishment up to life imprisonment, if hurt is caused to a victim. Considering the overall facts and circumstances of the case and the fact that the trial is almost going to conclude, out of 32 witnesses, 24 witnesses stand examined, who have supported the prosecution case, the CCTV footage and the statement of the corroborating witnesses supports the prosecution story, as well as the criminal antecedents of the present applicant, this Court does not find it a fit case for grant of bail as the gravity of the offence does not entitle him to the same.

11. The learned Trial Court is however directed to conclude the trial within a period of six months from receipt of this order, since the accused is in judicial custody for about six years.

12. As detailed arguments were addressed, therefore, detailed finding was required in this case as the statement of the victim recorded before the learned Trial Court also was placed on record and attention of this Court was drawn to it.



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13. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
AUGUST 18, 2025/A/ns