

**B.A. No.1885/2020**  
**FIR No. 212/2020**  
**PS Timar Pur**  
**State v. Suresh Malhotra @ Shiva**  
**U/s 307/34 IPC &25/54/59 Arms Act**

22.12.2020 at 4pm

**ORDER**

This is an application for grant of bail on behalf of accused-applicant Suresh Malhotra @ Shiva in case FIR No. 212/20.

Ld. counsel for the accused-applicant has contended that accused-applicant is in JC since 02.09.2020. That accused-applicant is innocent and has been falsely implicated in the present case. That mother of accused is a widow and accused-applicant is to support her as she is suffering from various ailments. That there is no witness to the occurrence. That chargesheet has already been filed. That accused-applicant has clean antecedents. That accused-applicant did not fire at the complainant and that no such alleged weapon is recovered from the possession of the accused-applicant or at his instance. That FIR is dated 28.08.2020 and accused-applicant was arrested on 01.09.2020. That as per MLC of injured the injury is opined to be simple in nature. That no recovery of weapon is effected from the accused-applicant. In support of his contentions, Ld. counsel has relied upon decision in Sunil Fulchand shah v. UOI (2000) 3 SCC 409; Prasanta Kumar Sarkar v. Ashish Chatterjee (2010) 14 SC 496.

Ld. Addl. PP for State submitted that accused applicant is the offender who fired gunshot at the complainant but complainant escaped as



he managed to duck in time out of sheer good fortune, but there after accused persons attacked on the complainant with knife and accused-applicant thrashed the complainant with fists and kick blows with co-accused Surjeet. That complainant was got admitted in hospital with four stab injuries. That from the manner in which the offence is committed it shows that the motive of the accused persons was to kill the complainant. That one of the co accused Bharat is still at large and proceedings under Section 82 CrPC have been initiated against him. That it is the accused-applicant who conspired to take complainant and his nephew along on the pretext of settlement and attacked them with a view to kill them.

Heard.

Case is registered on the complaint of Sh. Jaswant @ Bholu dated 28.08.2020 to the effect that 30 days prior thereto, accused-applicant took a laptop from his nephew Naresh @ Bhopa and despite repeated request same was not returned by him. That on 28.08.2020 in the night, accused applicant was present outside of his inlaws and his nephew Naresh @ Bhopa came there and asked for his laptop and the accused-applicant entered into an altercation which turned into a scuffle. That on the same night after sometime, accused-applicant came to the house of the complainant and took complainant and his nephew along with him in a car on the pretext of settling the dispute and when they reached near Indira Basti, Timarpur, all of them alighted from the car and all of a sudden, accused applicant took out a gun and fired at the nephew of the complainant, however, luckily the shot missed his nephew and in the


*Neelguru*

meanwhile, associates of the accused applicant namely Bharat, Surjeet and Annu armed with knife attacked them and inflicted knife blows on their person. The nephew of the complainant managed to flee from the spot and called two police officials and on the arrival of police, all the four persons fled away from the spot.

The pistol and one used empty shell were recovered from the spot itself. The accused-applicant in a pre planned manner with his accomplices secured the presence of the injured with his nephew to a convenient place in order to settle scores, that the accused-applicant was fully armed with loaded pistol and his accomplices with knife while the complainant and his nephew were unarmed and taken by surprise by the attack, the manner in which the assault is committed also goes to demonstrate the pre meditation attached to the assault, the accused-applicant fired point blank at the unarmed nephew of the complainant who is saved by the grace of God as the victim showing great presence of mind managed to duck at the opportune moment and also managed to flee and save himself, the complainant is stabbed multiple times by the co-accused while the unrelenting accused-applicant continues to beat him mercilessly, all such facts and circumstances indicate the intention to cause the death of the complainant and his nephew. The medical record also shows multiple stab injuries. The last bail application of the accused-applicant was dismissed on 24.11.2020 on the same grounds and there is no change in circumstances since then warranting fresh consideration. The filing of the chargesheet for this Court is no change in circumstance as such, taking into



consideration the role attributed and the empty shell recovered from the spot. No ground therefore is made out to grant bail to accused Suresh Malhotra @ Shiva in case FIR No.212/2020 at this stage. The present application accordingly stands dismissed.

  
(Neelofar ~~Abida~~ Perveen)  
ASJ (Central)THC/Delhi  
22.12.2020