

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

Judgment delivered on : November 06, 2015

+ BAIL APPLN. 2028/2015
RAMESH KUMAR @ RAMSA

..... Petitioner

Through: Mr. N.S. Dalal, Advocate

versus

THE STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for the State

**CORAM:
HON'BLE MR. JUSTICE P.S.TEJI**

JUDGMENT

P.S.TEJI, J.

1. The petitioner has filed the present bail application under Section 439 of the Code of Criminal Procedure, 1973 for seeking bail in a case registered under FIR No.54/2015 under Section 304 of Indian Penal Code, Police Station Nihal Vihar, Delhi.

2. The State has filed its status report and according to the status report, PCR Call vide DD No.6-A, Police Station Nihal Vihar, regarding a quarrel at House No. RZ-32, Nihal Vihar, Delhi was received. After the police reached the spot, they found that one Raj

Kumar got injured. The PCR van took the injured to SGM Hospital, Mangol Puri. ASI Anil Dutt reached at the hospital, where the doctor of the hospital opined that the injured was unfit for statement. Statement of Sh. Ramakant Jha, father of the injured was recorded regarding the whole incident and a case under Section 308-IPC was registered against the petitioner. ASI Anil Dutt, seized the exhibits from the spot and accused Ramesh Kumar @ Ramsa was arrested on 22.1.2015, **who confessed his** role and got recovered the wooden stick used in the crime. Unfortunately on 28.1.2015 the injured victim expired and the charge under Section 304 IPC was added. Post-mortem on the body of the victim was conducted and the investigation was taken up by Inspector Ashe Ram. Subsequent opinion on the injuries was taken by the Investigating Officer from the SGM Hospital Mortuary, Mangol Puri, Delhi and exhibits were deposited at FSL, Rohini, Delhi. After completion of the investigation the charge sheet was filed in court on 9.4.2015. As per prosecution the case is pending trial and the next date fixed in the case is 28th October 2015.

3. The petitioner had also moved the bail application before the learned Additional Sessions Judge (West), Delhi which was dismissed

vide order dated 20th July 2015, which is impugned in the present petition. The learned Additional Sessions Judge (West), keeping in view the gravity of the offence, nature of serious allegations levelled against the accused/petitioner and the fact that the case is at the initial stage, where all the material witnesses are yet to be examined, rejected the bail application of the petitioner.

4. Mr. N.S. Dalal, Advocate appears on behalf of the petitioner and submits that on the basis of the facts as alleged in the FIR, no case is made out against the petitioner and the petitioner has been falsely implicated in the case. Learned counsel for the petitioner further submits that the petitioner is in custody for the last about seven months. Learned counsel for the petitioner also submits that even as per the charge sheet, so submitted by the prosecution, it is not a case under section 304 of IPC, therefore the petitioner ought to be granted bail in the aforesaid case.

5. To oppose the contentions raised by learned counsel for the petitioner, Mr. Vinod Diwakar, learned Additional Public Prosecutor for the State submitted that the order passed by the learned Additional Sessions Judge is a well reasoned order and does not call for any

interference by this Court. The learned Additional Sessions Judge, while rejecting the bail to the accused has rightly observed that there are clear and specific allegations levelled against the accused and the death of the deceased victim was due to craniocerebral damage as a result of blunt force/object diverted upon the head and since the injuries are ante mortem in nature; MLC and subsequent opinion etc. are in consonance to the case of the prosecution and the case is at the initial stage where all the witnesses are yet to be examined.

6. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

7. After careful scrutiny of the case in hand, and perusing the status report filed on behalf of the State, wherein it is specifically mentioned that there is confession of the petitioner of his roll attributed to him and there is also recovery of wooden stick at his instance, this court finds that the present case is not a fit case to grant bail at this stage.

8. The learned Additional Sessions Judge has rejected the bail application of the petitioner, after considering the matter in totality and keeping in view the gravity of offence, nature of serious

allegations levelled against the petitioner and the fact that the material witnesses are yet to be examined. The said reasoning for rejection of bail in the impugned order does not call for any interference and I have no reason to disagree with the findings arrived at by the learned Additional Sessions Judge, especially when the charge has been framed against the petitioner and specific charge is framed under Section 304 of IPC against the petitioner/accused and material witnesses are yet to be examined.

9. In view of the aforesaid, this court is not inclined to grant bail to the petitioner - Ramesh Kumar @ Ramsa at this stage. Accordingly, the present petition is dismissed. However, it goes without saying that any observation made in the aforesaid order shall not affect the merits of the case.

(P.S.TEJI)
JUDGE

NOVEMBER 06, 2015
pkb