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

+ **BAIL APPLN. 100/2016**

KESTO HALDAR

..... Petitioner

Through: Mr.Tarun Kumar Arora,
Ms.Deepika Madan and
Mr.Ravinder Saini, Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Ms.Meenakshi Chauhan, APP.

And

+ **BAIL APPLN. 330/2016**

NARENDER & ORS

..... Petitioner

Through: Mr.K.N.Jha, Adv.

versus

STATE

..... Respondent

Through: Ms.Meenakshi Chauhan, APP.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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01.06.2016

1. The present bail applications have been filed for grant of bail to the respective petitioners under Sections 439 Cr.P.C. in FIR

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No.285/2015 under Section 302/34/120B IPC, PS: Burari, Delhi.

2. The brief facts of the case are that on 07.03.2015, a PCR call vide DD No.54-B regarding stabbing of one boy was received at police station Burari and same was marked to SI Sanjay Kumar Gupta for enquiry and necessary action. On receipt of PCR Call, SI Sanjay Kumar Gupta reached the spot and found that PCR Van has already admitted injured to Trauma Centre, accordingly, SI Sanjay Kumar Gupta reached the Trauma Centre and collected the MLC No.201315 of injured namely Kamal S/o Ram Aashish R/o: G-Block, Jhuggi near Sai Mandir, Jahangir Puri, Delhi, aged 16 years. Injured Kamal was found unfit for statement and no eye witness was found, accordingly, a case vide FIR No.285/15 under Section 307 IPC was registered on DD entry and investigation of the case was entrusted to SI Sanjay Kumar Gupta.

3. The learned counsel for the petitioners in support of their bail applications have submitted that the Court below has not applied its mind to the facts and circumstances of the case while rejecting their bail applications; no motive has been attributed to the petitioners; the petitioners had no grudge with the deceased as they were living in the

same Bengali Colony and are of the same age group and also they are working as casual labourers and have been implicated because they are friends with JICL Sanjeev; nothing incriminating has come against the petitioners in prosecution evidence and the trial is not likely to conclude soon; there are lots of contradictions in the testimonies of the witnesses and there is no eye witness of the incident in the case.

4. The learned APP for the State has opposed the bail applications stating that it is a well planned murder as the motive of all the accused including the petitioners was to eliminate the deceased as JICL Sanjeev Halder was having love affair with JICL Pooja who previously had relations with deceased Kamal. On this issue, both Sanjeev Halder and Kamal had fought previously for which complaint was made to the police but both entered into a compromise at that point of time.

5. The learned APP for the State has also filed a status report dated 03.03.2016 as per which during the course of investigation, it came into notice that one JICL Pooja aged about 15 years was the friend of injured Kamal, but JICL Pooja had also another friend

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namely JICL Sanjeev Haldar. JICL Sanjeev did not like the friendship of JICL Pooja and Kamal and JICL Pooja also wanted to end her relationship with Kamal. JICL Pooja and JICL Sanjeev wanted to teach a lesson to Kamal. Accordingly, they hatched a criminal conspiracy to teach a lesson to Kamal. Accordingly, on 07.03.2015 at about 5 P.M. JICL Pooja brought Kamal with her at Burari Chowk on the pretext of dating, where Sanjeev along with his other friends namely Govinda Haldar, Kesto Haldar, Gautam Haldar, Narender @ Naveen @ Nabbu and Suraj @ Modi were already present and waiting for Kamal. JICL Pooja was regularly in touch with JICL Sanjeev through mobile and updating him regarding their position. When they reached at Burari Chowk, the group of persons attacked Kamal. Gautam Haldar held Kamal from back, Kesto Haldar held his left hand whereas Naveen & Govinda held his right hand. Thereafter, JICL Sanjeev stabbed him on head and after that they all ran away from the spot. Due to the same the deceased Kamal sustained multiple injuries most of which were caused by a sharp edged knife like weapon.

6. Thereafter, statements of the witnesses were recorded

separately which are annexed with the case file. Accordingly, both JICLs were apprehended and produced before the JJB and other co-accused namely Govinda Haldar, Kesto Haldar, Gautam Haldar, Narender @ Naveen @ Nabbu and Suraj @ Modi were also arrested in the case. During investigation, JICL Sanjeev told that on the day of incident, he collected his friends namely Govinda Haldar, Kesto Haldar, Gautam Haldar, Narender @ Naveen @ Nabbu and Suraj @ Modi at Burari Pusta and consumed liquor with them and informed that on that day that Kamal was coming at Burari bypass and we have to finish him. One knife was recovered from the spot and two knives were recovered at the instance of JICL Sanjeev and other accused persons i.e. one at the instance of JICL Sanjeev from his house in the presence of Welfare Officer, OHB-II, Kingway Camp, Delhi during his protective custody period and second at the instance of accused Govinda Haldar from the tin shade of his house. During the course of investigation, it came on record that accused Suraj @ Modi had given the knife used by him to his associates Govinda to dispose of the same, but co-accused Govinda hid the same on the tin shade of his house and the same was recovered at his instance.

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7. Further, on analysis of CDR of the accused persons, it was revealed that all the accused persons were present at the spot of the incident at the relevant time.

8. I have heard the learned counsel for the petitioners as well as the learned APP for the State and gone through the record.

9. In the facts and circumstances, this Court is of the view that the allegations leveled against the petitioners are serious in nature to the effect that they criminally conspired with each other and in furtherance of the said conspiracy committed the murder of the deceased

10. It is specifically alleged against accused Kesto Haldar that he held the deceased by his left hand while accused Naveen and Govinda held his right hand whereafter JICL Sanjeev stabbed him repeatedly in stomach and accused Suraj @ Modi stabbed him on head and after that they all ran away from the spot. The injuries being serious in nature proved fatal as the deceased succumbed to the injuries in the hospital. Charge sheet has been filed and case is pending trial and charges have also been framed in the matter against all the accused persons under Sections 302/120B/34 IPC. During trial, five witnesses

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have been examined and the case is still pending trial. There is every apprehension that if the petitioners are released on bail, they can influence the witnesses. The contentions and grounds raised by the learned counsel for the petitioners cannot be appreciated at this stage for the reasons that the trial is still going on and no comments on the merits of the case are warranted at this stage.

11. In view of the seriousness of the offence and the fact that there was active involvement of the petitioners in the commitment of the murder of the deceased, this Court does not find it fit to enlarge the petitioners on bail. The bail applications are accordingly dismissed.

12. Before parting with the matter, it is clarified that any expression of opinion made above shall not have any bearing on the merits of the case.

13. However, the Trial Court is directed to expedite the trial in the matter.

JUNE 01, 2016/dm


P.S. TEJI, J