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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and Order: 02 September, 2016

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BAIL APPLN. 479/2016

RAM GOPAL @ RAHUL @ THEKA

..... Petitioner

Through: Ms. Nazoo Sharma and Mr. Bharat
Bagga, Advocate

versus

THE STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Mr. M.P. Singh, Additional Public
Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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02.09.2016

P.S. TEJI, J. (ORAL)

1. By this petition filed under Section 439 of Cr. P.C., the petitioner seeks bail in a case registered as FIR No. 364/2014 under Section 302/201/120-B of Indian Penal Code, at Police Station Kanjhawala, Delhi.

2. Brief facts of the case are that the victim Laxman (now deceased) was husband of accused Shanti Devi. Shanti Devi and accused Panna Lal were having illicit relations between them which was not to the liking of deceased Laxman. On 14.05.2014 at 2.05 AM at CNG Pump Swada, body of Laxman was found and a case under

Section 302 of IPC was registered. The body of the deceased could not be identified at the time of identification.

3. The prosecution case is that the brother of the deceased Kanhaiya Lal had stated to the investigating agency that on 12.05.2014 a fight took place between Shanti Devi and Laxman and on 13.05.2014 Shanti informed him that deceased Laxman had gone to Uttam Nagar, whereas he was sent by accused shanti to Ballabgharh to accused Panna Lal on the pretext that Laxman was to collect Rs.20,000/- from Panna Lal. The prosecution case is that the deceased was killed at Ballabgharh/Faridabad and his body was left at Sawda. When Laxman left Delhi for Ballabgharh, Santi Devi made a call from the PCO booth to Panna Lal informing him about leaving the deceased from Delhi to Ballabgharh. The call was for 1029 seconds.

4. During investigation, PCO Booth owner Bhagwati identified the accused shanti Devi as the person who made the call at that time. From the body of deceased one bus ticket was recovered and the concerned bus owner confirmed that deceased travelled to Ballabgharh from Delhi on the date of incident. As per prosecution case, in the murder of the deceased, Santro Car used by the petitioner – Ram Gopal was used wherein the deceased was strangled in the car with some ligature material and was also hit with a brick on his head to confirm his death.

5. As per postmortem report of the deceased, he died in the night intervening 13 and 14.05.2014 due to asphyxia as a result of ante-

mortem strangulation. Accordingly, charges under Section 302/120B/201 of IPC were framed against all the accused persons vide order dated 08.11.2015.

6. Learned counsel for the petitioner has contended that the petitioner is in judicial custody since 01.08.2014 and the bail application filed before the Special Judge, NDPS/ASJ, (NW) has been rejected mainly on the ground that the murder of the deceased was conducted in the car used by the petitioner and certain blood stained were collected for scientific analysis. It is further contended that the other two co-accused persons who have been alleged of having illicit relationship with each other, have been granted bail on the same facts and same set of evidence, therefore the petitioner ought to be granted bail on parity.

7. Learned Additional Public Prosecutor for the State vehemently opposed the aforesaid contentions raised by learned counsel for the petitioner. It is submitted that the murder of deceased was conducted in the car used by the petitioner and certain blood stains were collected for scientific analysis. Therefore, the case of the petitioner stands on different footings than that of the other co-accused.

8. I have heard the submissions made by learned counsel for the petitioner and the learned Additional Public Prosecutor for the State. I have also perused the orders passed by the learned Additional Sessions Judge thereby rejecting bail to the petitioner.

9. This court observes that the charge sheet has been filed and all the accused persons are charged with the offence punishable under Section 302/201 of IPC; the other co-accused – Shanti Devi and Panna Lal have been granted bail by the learned Additional Sessions Judge, on the same set of facts and evidence recorded in this case.

10. After going through the impugned orders as well as the status report filed on behalf of the State, what this court needs to consider is the role attributed to the petitioner in the present case. This court notes that the other co-accused of the case are already been released on bail by the learned Additional Sessions Judge and the petitioner has sought parity with the co-accused.

11. This court is conscious of the fact that the charge sheet has been filed and the matter is pending adjudication before the Trial Court and at this stage, this Court need not go into the factual matrix of the case as well as the other relevant evidence in this case. This court notes that the other co-accused persons – Shanti Devi and Panna Lal have already been released on bail on the same set of facts and evidences. There are a large number of cases of this Court in which the question of parity in the matters of bail has been considered earlier and the weight of judicial authority is in favour of the principle of parity being followed. Therefore, this court is inclined to grant bail to the petitioner – Ram Gopal @ Rahul @ Theka on the ground of 'parity'.

12. Accordingly, the bail application filed by the petitioner – Ram Gopal @ Rahul @ Theka is allowed and he is directed to be released

on bail subject to furnishing of his personal bond in the sum of Rs.50,000/- with two sureties of the like amount to the satisfaction of the Trial Court.

13. Before parting with the order, this Court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

14. With aforesaid direction, the present bail application, filed by the petitioner stand disposed of.

15. Dasti.

SEPTEMBER 02, 2016
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P.S.TEJI, J