

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : September 01, 2016

+ BAIL APPLN. 1071/2016
INDERJEET @ POPPY Petitioner
Through: Mr.Praveen Jha and Mr.Chaitanya
Kakkar, Advocates.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Ms.Manjeet Arya, Additional Public
Prosecutor for the State

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

%
P.S. TEJI, J.

1. By this petition filed under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.) the petitioner seeks bail in FIR No.532/2014 under Section 302/307/201/34 of IPC, at Police Station Sabzi Mandi, Delhi.

2. The brief facts of the case are that on 25.10.2014 at about 11 AM in front of House No.294, Gali Akhade Wali, Kabir Basti, Malka Ganj, Subzi Mandi, Delhi, the accused Ashok @ Puskar, Vijay, Yogender @ Jogga, Inderjeet @ Poppy and Anil Kumar @ Sonu, with common intention committed murder of Ajay by inflicting injuries with knife and also caused injuries to Anil and Sanjay with knife. The present case was registered on the statement of Rajesh.

3. During the course of investigation, the complainant was examined and his statement was recorded. It is stated that on 25.10.2014 at about 11 AM, there was some verbal altercation between Inderjeet and his parents. The complainant's niece Arti informed the complainant about the quarrel that was going on outside the house of his aunt. The complainant went there, he saw that the accused Ashok @ Puskar was having a knife in his hand. The petitioner – Inderjeet alongwith other three co-accused was catching hold of his brother Ajay and they were exhorting Ashok @ Puskar to stab his brother Ajay. It is stated that the accused Ashok @ Puskar gave three – four knife blows in the stomach of his brother Ajay, and when his brother Anil tried to save Ajay, he was also stabbed by accused Ashok @ Puskar. The other brother Sanjay caught hold of accused Ashok @ Puskar to save Anil, and in their scuffle, the knife fell down on the ground. It is alleged that thereafter, accused Inderjeet @ Poppy (petitioner herein) lifted the same knife from the ground floor and stabbed Sanjay. It is further stated that when the complainant Rajesh attacked them with the cot's leg, the accused fled away from the spot.

4. The injured Ajay, Anil and Sanjay were taken to Hindu Rao Hospital, where injured Ajay was declared brought dead by the doctors. Statement of other eye-witnesses Anil, Sanjay, Krishna, Arti were recorded and all the witnesses have corroborated the statement of the complainant. Accordingly all the accused persons were arrested in the case. The weapon of offence being the knife was recovered at the

instance of accused Ashok @ Puskar. Exhibits were seized and sent to FSL for analysis and report. Charge sheet in the case has been filed and it is reported that 32 out of 38 witnesses have been examined by the Trial Court. The petitioner is in custody since the date of his arrest, i.e. 27.10.2014. He filed his bail application before the Court of learned Additional Sessions Judge, which was rejected vide order dated 07.04.2016. Consequently, the present bail application is moved by the petitioner before this Court.

5. Learned counsel for the petitioner contended that the petitioner is falsely implicated in the present case as the complainant was inimical to him. Even no incriminating weapon has been recovered from the possession of the petitioner. It is further stated that the petitioner had not inflicted any injury to the deceased or any other person. The only allegation against the petitioner is of catching hold of the deceased with other co-accused persons, even the same are false and frivolous. It is contended that the present incident was not a premeditated but was based on a sudden fight between complainants and the accused persons. Those were the complainants who were aggressors as they attacked the accused persons. In this regard attention of the Court was drawn to the testimony of PW-8 and 12. Dispute regarding time gap between the time of incident and reaching the hospital, is also raised on behalf of the petitioner. Learned counsel for the petitioner referred the deposition of PW-4, in which he deposed that *he did not see who stabbed Sanjay and that the petitioner was only holding the deceased Ajay.*

6. Contradiction between the prosecution case and the deposition of PW-3 is also raised. It is contended that there is no specific allegation against the petitioner. The petitioner has not given any blow which could have been fatal to the deceased or anybody else during the quarrel. It is further contended that the trial of the case may take a considerable time, charge sheet in the case has been filed, nothing is required to be recovered from the petitioner, therefore, the petitioner ought to be granted bail in the present case.

7. Learned Additional Public Prosecutor appearing for the State vehemently opposed the contentions raised on behalf of the petitioner and submitted that the complainant was an eye witness to the crime and he has specifically mentioned in the FIR that the petitioner – Inderjeet @ Poppy had lifted the knife which was fallen on ground during the scuffle between Sanjay and accused – Ashok @ Puskar and thereafter, he stabbed Sanjay. Moreover the other eye-witnesses - Anil, Sanjay, Krishna, Arti have also corroborated the statement of the complainant. It is further informed that 32 out of 38 prosecution witnesses have been examined and all the witnesses have supported the case of the prosecution. Lastly it is stated that the witnesses are the residents of the same locality and there is every apprehension that the accused may threaten the witnesses thereby hampering the trial of the case. Therefore, in such a situation, the petitioner be not released on bail.

8. I have heard the submissions of learned Senior Counsel appearing on behalf of both the petitioner as well as the submissions

of learned Additional Public Prosecutor for the State and also gone through the material placed on record.

9. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee*** (2010) 14 SCC 496, the Hon'ble Supreme Court dealt with the basic principles laid down in catena of judgments on the point of granting bail. The Court proceeded to enumerate the factors:

9. ... among other circumstances, the factors [which are] to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.*

10. After careful scrutiny of the case, going through the contents of the petition as well as FIR, and the statement of the complainant and

the other eye-witnesses Anil, Sanjay, Krishna, Arti, who have corroborated the statement of the complainant and the fact that the remaining prosecution witnesses are the residents of the same locality, there is every likelihood that the petitioner may hamper the trial of the case, therefore, this Court is not inclined to grant bail to the petitioner – Inderjeet @ Poppy at this stage.

11. Resultantly, the facts emerging from the record culminate into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

12. 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 petitioners. 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.

13. With aforesaid observations, the present bail application stands disposed of.

P.S.TEJI, J

SEPTEMBER 01, 2016
pkb