

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : 17th March 2016

+ BAIL APPLN. 746/2015
MUNINDER PANJETA

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate
with Mr. Nipun Bhardwaj, Mr.
Ankush Narang, Ms. Anjali Rajput
and Mr. Raunaq Anand, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Manjeet Arya, learned Additional
Public Prosecutor for the State

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

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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.125/2010 under Section 302/34 of IPC, at Police Station Vasant Vihar, Delhi.

2. In a nutshell, the prosecution's case is that on 10th May, 2010 an information was received regarding stabbing at village Katwaria Sarai in PS Vasant Vihar. On reaching at the spot it was found that one boy namely Honey aged 19 years was stabbed by some persons

and was taken to Fortis Hospital by his cousin brother Nitin where he was declared brought dead by the doctors. The abovementioned FIR was registered on the statement of Nitin who alleged that three persons namely Moninder Panjeta, Saurabh Yadav and Charan Singh, the present Petitioner, were having heated discussion and were threatening Honey to kill. Joginder @ Tuli and Avinash who were the co-villagers and of tender age tried to disentangle them. Nitin also made efforts to separate Honey from those boys but all the boys pounced upon Honey and stated that he was considering himself to be a big contractor of the village and they would kill him. One boy pierced a knife on the right side of the chest of Honey and other boy having an iron rod in his hand assaulted on the head of Honey and the remaining boys also started assaulting Honey with slaps, fist and legs. Within a short time Honey fell down on the ground. After seeing Honey injured and falling the assailants ran away and entered inside the street. He lifted Honey and carried him to the hospital and Dinesh Bansal, Joginder @ Tuli and Avinash came for his help.

3. Mr. K.K. Manan, learned senior counsel appearing on behalf of the petitioner contended that there is nothing incrimination has been recovered from the possession of the petitioner or at his instance. It is further contended that 36 witnesses have been examined and out of whom, one of the eye witnesses – Harish (PW-1) did not support the prosecution version and had deposed contrary to the same. Learned senior counsel for the petitioner further drawn attention towards statement of another eye-witness – Joginder @ Tulli (PW-3), and

contended that the witness has given contradictory statement which clearly casts a shadow of doubt on the prosecution's version. Simultaneously, the prosecution witness Avinash Malik (PW-10) has made improvements in his earlier statement under Section 161 of Cr. P.C. made before the investigating agency. It is further contended the other eye witness to the incident – Dinesh Bansal (PW-11) has also not supported the prosecution story and has resiled from his earlier statement while deposing contrary to what he said earlier, in respect of the petitioner herein. Not only this, the learned senior counsel appearing for the petitioner contended that even the complainant has made improvement in his statement.

4. The learned senior counsel for the petitioner further contended that the petitioner has earlier been granted several times interim bail and he never misused the concession of bail and surrendered on time. At last, it is contended that charge sheet in this case has been filed and all the material witnesses have been examined and there are no chances to influence the witnesses and tampering with the evidence and moreover, the petitioner is in judicial custody since 11th May 2010 and the other co-accused in the present case have already been granted bail, therefore, it is urged that in such a situation, the petitioner be released on bail in the present case.

5. Ms. Manjeet Arya, learned Additional Public Prosecutor appearing on behalf of the State vehemently opposed the contentions raised on behalf of the petitioner and submitted that there were six accused persons who were arrested in the case but the petitioner has

been attributed the main role of stabbing the injured with a knife due to which he succumbed to the injuries. Not only this, the weapon of offence is also recovered from the residence of the petitioner and the grip of the knife contains the name of the petitioner. It is further submitted on behalf of the State that the petitioner has been identified by the complainant of the FIR in question. Learned Additional Public Prosecutor for the State further drew attention towards the statements of Joginder @ Tuli (PW-3), Avinash Malik (PW-10) and Nitin Sansanwal (PW-16), and contended that all these witnesses have deposed against the present petitioner and clearly deposed that it was the petitioner who stabbed the deceased Hunny with the knife on the right side of his chest. The cause of death is also opined to be of Hemorrhagic Shock consequent to injury No.1 caused by pointed sharp edged long weapon, which is sufficient to cause death in ordinary course of nature and anti mortem in nature and fresh in duration. Therefore, in the present facts and circumstances, the petitioner ought not be granted bail in the present case.

6. I have heard the submissions of learned Senior Counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor for the State and also gone through the material placed on record.

7. For careful scrutiny of the case, this Court has gone through the contents of the petition as well as FIR, the deposition of the material witnesses before the learned trial court, and this Court observes that the petitioner has been charged with the offence punishable under

Section 302 of IPC. He has also been identified by the complainant of the FIR in question. Recovery of weapon of offence being knife and rod from the tand of Room No.16, House No.375A, Village Katwaria Sarai, New Delhi, is proved by Satish (PW-2). PW-2 has also identified the knife having name of the petitioner on its blade.

8. In the status report filed on behalf of the State, it is specifically mentioned that as per the post mortem of the deceased Hunny the cause of death in this case was Hemorrhagic Shock consequent to injury No.1 caused by pointed sharp edged long weapon, which is sufficient to cause death in ordinary course of nature and anti mortem in nature and fresh in duration.

9. The petitioner also cannot take parity with the other co-accused persons in this case, as he has specifically attributed the role of stabbing knife in the right side of the chest of the deceased Hunny.

10. 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.*

11. In light of the facts and circumstances of the present case, this Court is of the view that the allegations against the petitioner are very serious in nature, in which the petitioner's involvement is to give stabbed injury to the deceased with knife. Besides this, the material witnesses PW-3, PW-10, PW-16 have deposed against the petitioner and PW-2 has also proved the recovery of the weapon of offence and the cause of death, as opined by the doctor, this Court is not inclined to grant bail to the petitioner – Muninder Panjeta, at this stage. Accordingly, the bail application filed by the petitioner is hereby dismissed. However, considering the fact that the charge sheet has been filed, statement of 36 witnesses have been recorded, and the fact that the petitioner is about 22 years of age and doing his B.A. from Kurukshetra University, therefore the Trial Court is directed to conclude the trial of this case expeditiously, preferably within a period of four months from the date fixed before the Trial Court. However,

the petitioner would be at liberty to apply for his bail afresh before the Trial Court after the expiry of the period of four months.

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 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.

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

MARCH 17, 2016
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P.S.TEJI, J