

\$~40

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

+ BAIL APPLN. 924/2015

RAJENDER KUMAR & ANR.

..... Petitioners

Through: Mr. R.K. Gupta & Ram Krishan
Gupta, Advs.

versus

STATE

..... Respondent

Through: Mr.Sudershan Joon, APP for the State
with Inspector B.S. Gulia, PS Palam
Airport

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

01.04.2016

1. The petitioners are seeking regular bail in case FIR No.223/2014, under Sections 302/201/34 IPC, PS Palam Village. The FIR has been registered on the basis of statement made by Sh. Shyam Sunder Gupta.
2. The contents of FIR reveal that the complainant Shyam Sunder Gupta and the petitioners are neighbours. The petitioner Rajender Kumar had been selling fruit on Rehri in front of the house of the complainant. On the day of incident some vehicle owner wanted to park his vehicle in front of the house of the complainant but he was asked to park it somewhere else to which he agreed. Thereafter at about 9.00am petitioner/accused Rajender questioned the complainant as to why he was asking that man not to park his vehicle there and whether he is the owner of the said land. The complainant asked him not to intervene when that person had objected and also asked Rajender to remove his Rehri from in front of his house.
3. When Rajender Kumar (petitioner) refused to remove his Rehri, the

complainant called his brother Sandeep Gupta (deceased). His mother also came out of the house. The petitioner Rajender allegedly abused his mother on which quarrel took place. In the meantime petitioner no.2/accused Babloo, associate of accused Rajender also came there and they started giving beating and accused Babloo also brought one bat petitioner/accused Rajender took that bat from him and hit his brother repeatedly and they were also giving beating with fists blows and kicks. As Sandeep became unconscious, they tried to make him conscious by sprinkling water on him and making him to drink water but his condition did not improve. Then he was taken to Divya Prastha Hospital and from there DDU Hospital where he was declared brought dead. PCR was informed, as per post-mortem report there were three external injuries which noted as under:

- (a) Two apartly placed abrasions having dimensions of 1cm x 0.5cm each present on the right side of cheek and base of the neck with reddish brown in colour.
- (b) Two apartly placed abrasions having dimensions of 2cm x 0.5cm and 3cm x 1cm each present on the right upper chest and over the upper part of sternum with reddish brown in colour.
- (c) Two apartly placed pressure marks/bruises of size 2cm x 1cm and 1cm x 0.5cm present on the middle aspect of right arm at upper 1/3rd part with reddish brown in colour.

4. The cause of death has been opined as under:

- (i) The cause of death and manner of death is kept pending till receipt of FSL report of Blood and Viscera.
- (ii) No any injuries sustained on the body of deceased were sufficient to cause death in ordinary course of nature.

(iii) TIME SINCE DEATH: Approx. 1 day prior to post mortem examination.

(iv) TOTAL No. of inquest papers: Ten (10) papers enclosed with signature.

5. In this case charge against the petitioners has been framed for committing offence punishable under section 304/34 IPC which has also been impugned by the complainant by filing Crl.Rev.P.No.638/2014 listed today as Item no.41.

6. The petitioners are in custody for the last about two years. Taking into consideration that they have been charged for the offence punishable under section 304/34 IPC, as per the post-mortem report, the injuries sustained were not sufficient to cause death in ordinary course of nature, cause of death has not been attributed to the injuries allegedly caused by the petitioners, the petitioners are directed to be released on bail on their furnishing personal bond in the sum of ₹50,000/- with one surety each of like amount to the satisfaction of concerned Trial Court with the following conditions:

(i) After they are released on bail, the petitioners will not stay near the house of the complainant.

(ii) During the pendency of the trial, the Petitioner shall not contact the Complainant or other public witnesses in any manner whatsoever.

(iii) The Petitioners shall not leave the country without the permission of the Court.

7. This application stands allowed in above terms.

8. Any observation made herein for purpose of granting bail to the petitioner shall not be deemed to be an expression on the merits of the case.

9. Copy of this order be given dasti under the signature of Court Master.

APRIL 01, 2016
'afa'

PRATIBHA RANI, J.