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

+ BAIL APPLN. 31/2017

JASWANT Petitioner
Through Mr.Puneet Singhal, Adv.

versus

STATE Respondent
Through Mr.Panna Lal Sharma, APP for the
State.

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

ORDER
15.02.2017

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1. The present application under Section 439 of the Code of Criminal Procedure, has been filed by the applicant for grant of interim bail for a period of three months for the reason of disposing of his house.

2. It appears from the record that the applicant is facing trial in FIR No.170/2010 which was registered under Sections 302/365/201/120B/34 of the Indian Penal Code and Section 25 of the Arms Act, at Police Station Paharganj.

3. It is submitted by learned counsel for the applicant that the house of the applicant is situated on the fourth floor and that the applicant wishes to buy a house on the ground floor due to medical condition of his parents. It is further submitted that the mother of the applicant has been advised knee replacement surgery and the father of the applicant is a heart patient warranting medical treatment. Copies

of the medical documents of the mother and father of the applicant, have been enclosed. It is next contended that for the purpose of disposing of the said property, the mother of the applicant had also given general power of attorney in favour of the applicant.

4. Learned counsel for the applicant has submitted that the applicant has been incarcerated for more than six years and for this reason, the economic condition of the family of the applicant has been deteriorated and that there is also shortage of money for proper treatment of the parents of the applicant.

5. Per contra, learned Additional Public Prosecutor for the State has submitted that the applicant had also applied for bail before the court below and vide order dated 17th October, 2016, the learned Additional Sessions Judge refused to grant bail.

6. I have heard learned counsel for the parties at length and gone through the available records. In the status report filed by the police, it has been submitted that the enquiry was conducted at the house of the parents of the applicant who produced photocopy of medical papers. It is submitted that besides the OPD card of the mother of the applicant, no other treatment papers were available and that the medical certificate of the father of the applicant only reflects drugs prescriptions from RML Hospital but does not suggest that he is seriously ill. It is further revealed from the status report that the father of the applicant is active and a tea vendor and can sell the house.

7. Perusal of the order dated 17th October, 2016 shows that interim bail was granted to the accused for the purpose of selling his house

but he did not avail the opportunity. The status report reveals that the applicant had filed three applications for regular bail but the same were dismissed vide orders dated 9th August, 2011, 31st May, 2013 & 8th November, 2013.

8. The allegations levelled against the applicant are that he indulged in criminal conspiracy with co-accused whereby an innova car for travelling to Haridwar was hired and the driver was murdered by strangulation and gun shots. In view of the seriousness of the offence as well as the fact that the applicant has already been granted concession of bail for the same purpose which he did not avail, this court is not inclined to grant concession of bail to the applicant.

9. In view of the above scenario, the present bail application is dismissed.

10. 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.

11. With aforesaid directions, the present bail application stands disposed of.

P.S.TEJI, J

FEBRUARY 15, 2017/aa