

\$~2

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

+ BAIL APPLN. 355/2017

MOHIT @ MONTY Petitioner

Through Mr.Khushbir Singh, Adv.

versus

STATE Respondent

Through Mr.Panna Lal Sharma, APP.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **21.03.2017**

Arguments heard.

The present application has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.117/2015, under Sections 364-A/302/201/120-B/34 IPC, Police Station Shahdara.

The facts in brief are that on 19.02.2015, an information was received in the police station regarding a missing boy. The police reached the spot and the complainant Chander Shekhar Sharma had stated that on 19.02.2015 at about 07.00 p.m., his son Jatin Sharma was playing in the nearby park. At about 07.15 p.m., Jatin Sharma brought some items from the shop and thereafter he again went back to play and since then he was missing. The complainant raised a suspicion that someone had kidnapped his son.

On the basis of statement of the complainant, FIR under Section 363 IPC was registered. During the course of investigation, on 20.02.2015, complainant informed the police that on 19.02.2015 he received a message on his mobile phone for a ransom of Rs.30 lakhs against the safe release of his son. Thereafter, penal Section 364-A IPC was added in the present case. During inquiry, a boy namely Aditya @ Addy informed that on 19.02.2015, he along with his friends was playing in the Chunniwala Park, East Rohtash Nagar. At around 7.15 p.m., he saw a boy, namely Vikas Choudhary accompanied with Jatin Sharma passing through the same area. On asking, Vikas Choudhary said that they were going to get some eatables. The mobile phone from which the ransom message was received was found to be used by Vikas Choudhary. On 20.02.2015, Vikas Choudhary was apprehended who confessed to his guilt and disclosed that he along with accused Mohit @ Monty kidnapped Jatin Sharma and obtained a mobile SIM card on fake identity. He also disclosed that he took the deceased to an isolated open DDA land where he and accused Mohit committed murder of the deceased, firstly by way of strangulation and then by hitting the head with a stone. Thereafter, the dead body of the deceased was dumped in a ditch. Thereafter, accused Mohit had typed the message for the demand of ransom money. After conducting further investigation, Sections 302/120-B/34 IPC were added in the present case. Since Vikas Choudhary was found to be juvenile, he was produced before the Juvenile Justice Board.

Argument advanced by the counsel for the accused is that the

dead body of the deceased was recovered by the JCL Vikas Choudhary and not by the accused Mohit. He further submitted that the dead body was recovered at 09.30 p.m. on 20.02.2015, whereas the accused Mohit was arrested at 10.00 p.m. It was further argued that no article belonging to the accused was recovered from the spot and that the mobile phone and SIM card allegedly used in the present case did not belong to accused Mohit. It was further argued that the accused/petitioner has been falsely implicated in the present case on the basis of disclosure statement of JCL Vikas Choudhary.

On the other hand, learned APP for the State vehemently opposed the bail application on the ground that both accused Mohit and JCL Vikas Choudhary hatched a criminal conspiracy to kidnap the deceased to make easy money and in furtherance of the same, they kidnapped the deceased; committed the murder of the deceased; demanded ransom from the father of the deceased; dumped the dead body in a ditch and subsequently the dead body was recovered at the instance of accused Mohit.

Perusal of record shows that there are specific allegations against the accused Mohit that he hatched a criminal conspiracy with JCL Vikas Choudhary to earn a quick buck. It is also alleged against him that he along with JCL Vikas made a plan to extort money from the father of the complainant as he had earned lot of money from his business. It is specifically alleged against the accused Mohit that when the victim was taken to an isolated spot by JCL Vikas, he was hidden behind a tree, accused Mohit then pressed the face of Jatin harshly and wrapped the nylon rope around his neck to strangle

him. Thereafter, both accused Mohit and JCL Vikas held both ends of the rope and strangled the deceased during which the rope broke and as a result deceased became unconscious and fell on the ground. Thereafter, accused Mohit hit the deceased on his head with a heavy stone due to which the deceased died and the dead body was dumped in a ditch. It is also alleged against accused Mohit that thereafter he typed a message on the mobile phone demanding ransom of Rs.30 lakhs and sent it on the mobile phone of the father of the deceased. It is also apparent from the pointing out and recovery memo of the deceased that the place of incident was pointed out and dead body was recovered at the instance of accused Mohit.

As per the post-mortem report of the deceased, cause of death was shock as a result of ante mortem injury to head due to blunt force impact. It is further apparent from the record that the charge in the present case has already been framed against the accused under Sections 302/364-A/120-B IPC.

In view of the above discussion, facts and circumstances and the seriousness of allegations against the accused regarding kidnapping of a boy for ransom and his subsequent murder after hatching a criminal conspiracy, this Court is not inclined to grant bail to the accused.

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.

The application is accordingly dismissed.

P.S.TEJI, J

MARCH 21, 2017
dd