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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 621/2017 & CRL.M.A.5770/2017**
DEEPAK KR. YADAV @ BABU

..... Petitioner

Through: Mr.Amit Kumar, Advocate.

versus

STATE

..... Respondent

Through: Mr.Kamal Kr. Ghei, APP for State
with Insp. Anil Sharma, P.S. K.N.K.
Marg, Delhi.

CORAM:
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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17.07.2017

This is an application under Section 439 Cr.P.C. filed on behalf of the petitioner for grant of regular bail in case FIR No.28/2010, under Sections 302/376/34 IPC and Sections 25/54/59 Arms Act, registered at Police Station K.N.Katju Marg, New Delhi.

Learned counsel for the petitioner has submitted that the petitioner is innocent person having no nexus with the allegations as alleged in the FIR in question. Counsel further submits that the petitioner was arrested by the police on 21.02.2010 and since then he is in judicial custody and further submits that there is no evidence to connect the present petitioner with the commission of the alleged offence. It is further submitted on behalf of the petitioner that all the material witnesses have been examined by the prosecution before the Trial Court and even the Investigating Officer of the case has also been partly cross-examined. Counsel further submits that no

purpose would be served if the petitioner is kept in judicial custody for an indefinite period and prays that the petitioner may be released on regular bail.

On the other hand, the learned APP for the State vehemently opposes the bail application and submitted that the date of the alleged offence is 14.02.2010 and the incident had taken place at House No.G-9/91, Sector-16, Rohini, Delhi and the assailants, namely, Deepak Kr. Yadav, Ashwani Gupta and Rajiv Kumar were armed with fire arms. He further submits that the accused persons entered into the said house and shot at Davender Kumar aged 35/36 years and at the relevant point of time, the victim Aanchal was present outside the house and the mother of the deceased Sarla was also there and the accused persons committed the murder of the deceased Davender Kumar and then subsequently the old lady was also allegedly raped by the assailants, who were armed with country made pistol and three live cartridges were also recovered from their possession in another FIR. Learned APP has further submitted that the accused persons were identified by the minor victim Aanchal and Sarla, the mother of the deceased Davender Kumar in the Court as well as during the police custody remand too.

Heard learned counsel for the parties and perused the record.

Instant is a case where the murder has been committed inside the House No.G-9/91, Sector-16, Rohini, Delhi on 14.02.2010 allegedly committed by the present petitioner and two other co-accused persons with fire arms without any trouble and instigation and provocation given to the assailants/accused persons. The accused persons have been stated to be identified by the victim minor girl Aanchal and Sarla, mother of the

deceased Davender Kumar and other public witnesses, against whom the petitioner along with other co-accused persons have also allegedly committed rape on her person. It means, the assailants entered the house with the motive and knowledge of committing such heinous crime. Such type of incidents cannot be and should not be tolerated and should be taken note of.

In these circumstances, I find no merit in the present bail application and the same is hereby dismissed. However, the observations made in the present order shall not affect the merits of the case during the trial or at the final stage of judgment/order.

Copy of this order be given *dasti*, as prayed.

I.S.MEHTA, J

JULY 17, 2017

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