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

+ **BAIL APPLN. 460/2017**

RAMESH ADHIKARI

.....Petitioner

Through: Mr. Arun Kumar Srivastava, Ms.
Nanda Chhetri and Mr. Inderpreet
Singh, Advocates.

Versus

STATE

....Respondent

Through: Ms. Aashaa Tiwari, APP for the State
with SI Prakash Chand P.S. Lodhi
Colony.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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06.07.2017

1. By this present application filed under Section 439 of Cr. P.C., the petitioner is seeking grant of bail in FIR No. 176/2013 under Sections 364-A/342/120-B/34 of the Indian Penal Code against the petitioner alongwith two other accused persons. The petitioner is stated to be in jail since 01.11.2013.

2. Mr. Arun Kumar Srivastava, learned counsel for the petitioner contended that the trial is still pending and is further being delayed for no fault of petitioner and further that there is no likelihood of the trial being concluded in the near future. He added that the prosecution closed its evidence on 06.08.2014 and the case was listed for statement of the accused. However, the statement of the accused has still not been recorded and moreover, the prosecution moved an application for recalling of seven prosecution witnesses, which was allowed and who

have still not been examined. He further contended that the co-accused namely Manoj Shreshtha, against whom similar allegations were made, has been granted bail by the Trial Court vide order dated 04.04.2014 and incarceration of the petitioner any longer would serve no purpose.

3. On the converse, Ms. Aashaa Tiwari, learned Additional Public Prosecutor appearing for the State, while relying upon the Status Report filed by the Police, objected to the grant of bail to the petitioner and contended that there are serious and grave allegations against the petitioner. She further contended that the petitioner does not have any permanent address in India and hence, there is every possibility of the accused fleeing from the clutches of law.

4. The submissions of learned counsel appearing on behalf of the petitioner as well as the submissions of learned Additional Public Prosecutor have been heard and the material placed on record has also been perused.

5. The attention of this Court was drawn to the orders dated 06.02.2014, 01.03.2016 and 28.04.2016, whereby the earlier bail applications filed by the petitioner were dismissed.

6. It is pertinent to note that the co-accused namely Manoj Shrestha, who was also a citizen of Nepal, was granted bail during the course of trial. He was, thereafter, stated to be absconding. Non-bailable warrants were issued against him but could not be executed since there is no extradition treaty with Nepal. Therefore, as far as the ground of parity is concerned, it cannot be a ground for granting bail to the petitioner. However, the said co-accused has now expired.

7. The offence that the petitioner is charged with is punishable under

Section 364-A with death or imprisonment for life, along with fine. Therefore, the allegations leveled against the petitioner are very serious in nature. Moreso, the Status Report revealed that the petitioner is a citizen of Nepal and does not have any permanent address in India. Therefore, there is every possibility that the petitioner may flee from justice and escape the clutches of law.

8. Taking the aforesaid facts and submissions into consideration, no grounds for granting bail are made out and in the interests of justice, the present application is dismissed.

JULY 06, 2017
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(SANGITA DHINGRA SEHGAL)
JUDGE