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

+ **BAIL APPLN. 682/2017**

RAJKUMARI UPADHYAY

....Petitioner

Through: Mr. J. K. Tripathi, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr. Mukesh Kumar, APP for State,
Inspector Ashok Kumar, PS-
Pulprahaldpur.
Mr. Shiva Sambyal, Advocate for the
complainant.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

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ORDER
11.10.2017

1. By the present petition filed under Section 439 of The Code of Criminal Procedure, 1973 (herein referred as 'Cr.P.C'), the petitioner/accused seeks **Regular Bail** in FIR No. 502/15 under Section 302/506/342/34 of Indian Penal Code (herein referred as IPC), registered at Police Station Pul Prahaladpur.
2. The brief and necessary facts of the case as per the FIR are that on the night of 05.12.2015 an information regarding the catching a thief vide DD No. 5A was received at Police Station and same was handed over to HC Uttam Nagar. In the meanwhile another DD No. 6A regarding scuffle was received at Police Station and again same was sent to HC Uttam Nagar. The FIR was registered under

Sections 307/506/34 IPC and thereafter upon death of the deceased Section 307 IPC was converted to Section 302 IPC.

3. The complainant Raju (father of the deceased) submitted that his son Sagar@ Rakesh (deceased) went to his Mausi's house at Lakarpur on 4.12.2015 at about 10:00 PM and at about 1:00 AM at night, complainant's neighbour Manoj came to his house and informed him that he could hear the complainant's son shouting and crying from inside petitioner/accused's house. The complainant alongwith his neighbour rushed to the house of petitioner/accused and upon reaching there the complainant knocked the door but the petitioner/accused and her family did not open the door. They opened the door when police arrived and the injured Rakesh was taken to the hospital by the PCR.
4. Mr. J.K. Tripathi, learned counsel for the petitioner/accused contended that there are no specific allegations against the petitioner/accused and the only allegation against the petitioner/accused in the chargesheet is that she alongwith other accused dragged the deceased inside the house and gave him beating; that the allegations are vague and no specific role is assigned to the petitioner/accused; that the chargesheet has been filed and she is no more required for custodial interrogation; that the deceased was 18 years old and it is not possible that the deceased could have been dragged from the main road without raising hue and cry; that the statement of the father of the deceased is not trustworthy as the statement was recorded on the next day

which is an afterthought in order to implicate the petitioner/accused.

5. Per contra, Mr. Mukesh Kumar, learned APP for the State opposed the grant of the bail to the petitioner/accused and contended that the petitioner/accused was actively involved in commission of offence. The weapon of offence was also recovered from the premises of the petitioner/accused and onus is on the petitioner/accused to prove her innocence as she was present at the spot when the deceased was removed to the hospital.
6. I have heard the learned counsel for the parties and have also perused the material on record.
7. It has been revealed during the course of investigation that the petitioner/accused was actively involved in the commission of crime. Deceased's father named the petitioner/accused alongwith other persons as accused and stated that the deceased had told him that he was beaten up by the accused persons. Perusal of the MLC reveals that the deceased has received 16 injuries and all the injuries are ante mortem in nature and caused by blunt external forces/impact. The doctor who conducted the post-mortem has opined that the injuries could be caused by alleged weapon of offence i.e. danda which was recovered at the instance of the co-accused. The presence of the present petitioner/accused at the time of commission of offence has also been established by the statement of Mehtab and Seema.

8. Keeping in view the aforesaid discussion, the facts and circumstances and the nature and gravity of the alleged offence, this Court is not inclined to grant the bail to the petitioner in this case. Hence, the petition stands dismissed.
9. Before parting with the above order, it is made clear that nothing observed herein shall have any bearing upon the merits of the case during trial.
10. Accordingly, the petition is disposed of.

SANGITA DHINGRA SEHGAL, J.

OCTOBER 11, 2017
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