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

+ BAIL APPLN. 1003/2017 and CrI.M. (B) 1023/2017,
CrI.M.A.9065/20107

SHRI SAPAN DAS

..... Petitioner

Through: Mr. Jaspreet Singh Rai, Advocate

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Akshai Malik, APP for the State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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26.05.2017

A very peculiar situation is noticed in this case. The petitioner was arrested on 03.08.2014 during investigation of FIR No.769/2014 of Police Station Govind Puri under Section 302/34 IPC involving murder of two persons, Rohit Vyas, husband of one of the deceased persons being the prime suspect he having since been declared proclaimed offender. The arrest of the petitioner was effected on the basis of some inputs including his telephonic contact around the time of the murders with the husband of the deceased. Charge sheet was filed against the petitioner on 30.10.2014. This was followed by supplementary charge sheet submitted on 14.09.2015. Besides Rohit, there are two more persons allegedly involved in this crime they being Abdul Rashid and Madan, who also are absconding and are stated to have since been declared proclaimed offenders.

Thus, the trial court is expected in law to proceed further on the basis of charge sheet and supplementary charge sheet against the petitioner as the sole accused brought to trial in this case. Yet, the question of charge has been hanging fire all along. Some of the proceedings to which the attention was drawn indicate the Public Prosecutor in charge required the assistance of the investigating officer in the context of analysis of the call details record (CDR).

In the meantime, the petitioner applied for release on bail arguing that except for disclosure statement no evidence has been placed before the trial court to incriminate him in the crime. The Public Prosecutor seems to have responded by stating that the allegations are serious in nature and that he in furtherance of common intention with others had committed the double murders. The Sessions Court by order dated 15.04.2017 rejected the application for bail merely observing that the court was not inclined to grant the relief “*taking into consideration the seriousness and gravity of the allegations and in the entire facts and circumstances.*” Unfortunately, the order dated 15.04.2017 does not disclose, even remotely, what are the facts and circumstances presented before the court against the petitioner. This kind of order can hardly be described to be a judicial order, which consequently is treated as one not having disposed of the bail application.

In the fitness of things, it will be proper that the trial court is directed to consider the question on charge as also the request of the petitioner for release on bail on the ground there is no evidence against him together on the next date fixed before the trial court. The court is informed that the matter is listed before the trial court on 29th May, 2017.

The trial court shall proceed with the consideration of the two aspects as mentioned above on the said date and pass detail reasoned orders. The investigating officer (IO) and the Station House Officer (SHO) of the concerned Police Station shall remain in attendance before the trial court for all assistance as may be necessary.

Petition is disposed of with these directions.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

MAY 26, 2017

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