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

+ **BAIL APPLN. 2016/2016**

RAJU KHAN

..... Petitioner

Represented by: Mr. Sidharth Aggarwal, Mr.
Aditya Sighla, Mr. Kumar
Vaibhav and Ms. Mehak Jaggi,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Represented by: Mr. Ravi Nayak, APP for the
State with Inspector Vipin
Kumar Bhatia, Traffic Unit.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

06.01.2017

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1. By the present petition, the petitioner seeks bail in case FIR No.353/2011 under Section 302 IPC registered at PS Saraswati Vihar.

2. Learned counsel for the petitioner contends that the petitioner has been in judicial custody since 18th September, 2011. Out of 36 witnesses, cited by the prosecution, 32 have been examined. No public witness remains to be examined. The last public witness was examined on 15th December, 2015 and examination of formal police witnesses itself has taken more than one year. The petitioner had never applied for grant of bail before the learned Trial Court till the public witnesses were examined and only thereafter when he applied the same, it was dismissed vide order dated 16th December, 2015. The learned Trial Court vide the impugned order though

BAIL APPLN. 2016/2016

Page 1 of 3

noted that there can be no piecemeal appreciation of evidence however, also held that since the petitioner is involved in ultimate offence of murder the Court would not like others to be scared by his presence in the society with lurking fear and dismissed the bail application. The Court also held that the chances of the petitioner's absconding were quite high and there was probability of his settling scores with others if released on bail. According to the learned counsel for the petitioner there was no material whatsoever, before the learned Trial Court to give all these conclusions.

3. Learned APP for the State opposing the bail application submits that after the order dated 16th December, 2015 dismissing the bail application was passed, seven police witnesses have been examined and cross-examined however, the Investigating Officer still remains to be examined.

4. The above noted FIR was registered after a dead body was found lying on a bench in Sandesh Vihar Park with a cut on the neck. Near the body, caps of beer bottles and empty packets of namkeen were found. The body was identified to be that of Sunil s/o Rajender Kumar. From the purse of the deceased produced by the family, some mobile numbers and passport size photograph of the deceased with his friend Honey were recovered. The deceased was dressed up like a female in the said photograph. After analysing the CDRs of the mobile phone of the deceased, the investigating agency zeroed down on the petitioner and it was revealed that the petitioner had purchased liquor bottles from a wine shop, near the place of incident, on the said date. Pursuant to the arrest of the petitioner bloodstained knife and bloodstained clothes of the petitioner were recovered.

5. As per the FSL report though no blood grouping has been given on

the knife however, the blood group on the clothes of the petitioner was found to be of 'AB' group without rhesus factor being mentioned.

6. Be that as it may, the petitioner has been in judicial custody since 18th September, 2011. All material witnesses have been examined and even after the public witnesses have been examined for last more than one year, the examination of police witnesses has not been concluded. The petitioner has roots in the society as his family members including his parents, wife and children are residing at Block-H, Shakurpur, Delhi.

7. Considering that the trial has delayed substantially and one more prosecution witness besides the defence witnesses which the petitioner would like to examine, still remain, this Court deems it fit to grant bail to the petitioner. It is therefore directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with two sureties of the like amount, out of which one surety would be of the family member of the petitioner, subject to the satisfaction of the learned Trial Court. During the pendency of the trial, the petitioner will not leave the National Capital Region of Delhi and will report to the SHO, PS Subhash Place once in a month on every first Monday at 4.00 PM. In case of change of address of the petitioner, the same will be duly intimated to the learned Trial Court by way of affidavit.

8. Petition is disposed of.

9. Order dasti.

MUKTA GUPTA, J.

JANUARY 06, 2017/'vn'

BAIL APPLN. 2016/2016

Page 3 of 3