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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 976/2017

RAMESH KUMAR

.....Petitioner

Through: Mr. R.K. Lamba, Advocate.

Versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Akshai Malik, APP for State.

BAIL APPLN. 1336/2017

VIKRANT BIRLA@KATTU

....Petitioner

Through: Mr. Arvind Nayyar, Senior advocate,
with Ms. Megha Sharma, Advocate.

Versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Anita Abraham, APP for State.

BAIL APPLN. 1496/2017

SANDEEP

.....Petitioner

Through: Mr. Anirudh Yadav, Advocate

Versus

THE STATE OF NCT OF DELHI

Through:

Through: Mr. Akshai Malik, APP for State.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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30.10.2017

1. By this common order, I shall dispose of the petitions filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), whereby the petitioners seek **grant of**

Regular Bail in FIR No. 469/2014 under Section 147/148/149/302/307 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at Police Station BHD Nagar, New Delhi.

2. The present case is registered on the complaint of one Bijender who stated that on 30.07.2014 at about 09:30 p.m. a quarrel had taken place between him, his family members on one side and his neighbours namely Suresh, Ramesh and Naresh, their family members on the other; that during the said quarrel Suresh alongwith his brothers Ramesh and Naresh and wife/Preeti started manhandling him; that thereafter the complainant's brother in-law's son Ravi/deceased intervened alongwith his brothers Sachin, Naveen and Shyambir, to pacify the matter but in the meantime accused Suresh called his other associates namely Rahul, Sandeep, Vikrant Birla and Mukesh, who arrived at the spot with bats, knives and iron rods; that accused Sandeep caught hold of Ravi from behind whereafter accused Rahul stabbed Ravi with a knife and Sandeep rotated the knife and pulled it out after which blood started oozing out from Ravi's body; that all the accused persons fled away from the spot of incident after which the police was reported and Ravi was taken to the hospital where he was declared "*brought dead*"; that the accused persons also inflicted injuries on complainant's son Vineet and his relative Sachin; that hence a complaint was lodged against all the accused persons namely Rahul, Sandeep, Vikrant Birla, Sagar, Mukesh Kumar, Naresh Kumar, Suresh, Ramesh Kumar and Preeti.

3. Learned counsels for the petitioners have contended that the petitioners have been falsely implicated in the present case and are in judicial custody since 31.07.2014; that all the allegations levelled against the petitioners are false and fabricated and are devoid of merits; that no prima facie evidence has been adduced against the petitioners by the prosecution; that all the public witnesses have been examined in the present case who have not supported the case of the prosecution; that PW-13, PW-15 and PW-16 have not supported the case of the prosecution and have been declared hostile; that out of total of 31 prosecution witnesses, 21 witnesses have been examined and now only formal witnesses are left to be examined; that as the examination-in-chief and cross-examination of all the material witnesses has been concluded there is no chance of the petitioners tampering with the prosecution evidence; that hence in the said circumstances bail be granted to the petitioners.
4. Learned Counsel for the petitioner Sandeep has further contended that the complainant has alleged that the petitioner co-accused Rahul inflicted a knife blow upon the deceased/Ravi and the petitioner rotated the said knife and pulled it out. However PW-3/Dr. Parvinder Singh who conducted the post mortem of the deceased clearly stated during his cross-examination that there is no such injuries on the deceased body which reflects rotation of weapon of offence. Counsel for the petitioner also contended that the petitioner is suffering from depression and neuro problems and he has been roped in the present case with ulterior motives by the

police officials; that the petitioner is having clean antecedents and there is no likelihood of his fleeing from justice; that hence his prayer for regular bail be granted.

5. On the contrary, learned APP for the State opposed the bail application of the petitioners and submitted that serious allegations have been made against the petitioners; that they have been charged for offences under Section 147/148/149/302/307 IPC for which maximum punishment is death or imprisonment for life; that the prosecution witnesses have supported the case of the prosecution to a large extent; that keeping in view the gravity of offence bail must not be granted to the petitioners.
6. I have heard the learned counsel for the parties and perused the material available on record.
7. Upon careful scrutiny of the case, this Court observes that the complainant, in his statements recorded under Section 161 Cr.P.C. and Section 164 Cr.P.C. has made specific allegations against each petitioner thereby attributing them specific roles in the commission of the alleged offence.

In respect of petitioner Ramesh Kumar, the complainant deposed during his Examination-in-Chief that *"During the course of abusing, Suresh called his brothers Ramesh and Naresh. Therafter, they all i.e. Suresh, Ramesh and Naresh started beating myself and my son Vineet.....Naresh was having base ball danda..Naresh and Ramesh also caught hold of Ravi and Suresh was instigating them....."*

In respect of petitioner Vikrant Birla, the complainant deposed during his Examination-in-Chief that *"Accused Sagar, Vikrant and Mukesh were armed with wooden logs/dandas and gave beatings to Vineet and Sachin....."*

In respect of the petitioner Sandeep, the complainant deposed during his Examination-in-Chief that *"In the meantime, Sandeep, brother in law of Naresh also joined them.....Sandeep was having one iron pipe.... They all give beatings to myself, my son Vineet and my relatives i.e. Ravi, Sachin and Navin....accused Sandeep who had caught hold of Ravi from behind his neck, pulled the knife from the stomach of Ravi and blood started oozing out from his stomach....."*

8. The version of the complainant is further corroborated by the testimonies of victim Vineet/PW-5 and Sachin/PW-6 and also the Post-Mortem Report/PMR No.184.14 of the deceased wherein the doctor has opined that *"Death in this case is due to hemorrhagic shock following injuries descried in PMR. Injuries No. (1) and (2) are caused by sharp edged weapon. Injuries No.(3) and (4) are caused by hard blunt object. Injury No.(1) is sufficient to cause death ordinary cause of nature."* Further the weapon of offence i.e. knife was recovered in respect of which the doctor/ Dr. Parminder Singh, who conducted the post-mortem of the deceased, stated that *"the injuries mentioned no.1 & 2 as mentioned in the PM report, could be possible with the knife produced in the court."*
9. Therefore from the observations so far made and other evidence placed on record, clear collusion between the three petitioners and

other accused persons in commission of the alleged offence is established. The testimonies of the prosecution witnesses and the medical and scientific evidence point towards direct involvement of the petitioners in commission of the alleged crime.

10. Keeping in view the aforementioned facts and circumstances as well as taking into consideration the gravity of the offences alleged, this court does not deem it fit in this case to grant regular bail to the petitioner.
11. Accordingly, the petitions stand dismissed.
12. Before parting with the above order, it is made clear that observations made in the order shall have no impact on the merit of the case.

SANGITA DHINGRA SEHGAL, J

OCTOBER 30, 2017 gr//