

\$~5

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

+ **BAIL APPLN. 1937/2017**

RAMNAWAL @ PARASHURAM Petitioner

Through: Mr.Sushil Kumar Singh and
Mr.Shinkar, Advocates.

versus

GOVT OF NCT OF DELHI Respondent

Through: Mr.Kewal Singh Ahuja, APP for the
State with Insp. P.C.Radav, PS Roop
Nagar.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

13.10.2017

1. The petitioner Ramnawal @ Parshuram is seeking regular bail in case FIR No.327/2016 under Section 302 IPC, PS Roop Nagar, Delhi.
2. Learned counsel for the petitioner has submitted that the deceased Ram Sanjeevan and the petitioner were known to each other as hailing from the same native place. The weapon of offence in this case was a 'danda' and the occurrence took place without any premeditation, thus, at the most the offence punishable under Section 304 IPC only is made out against the petitioner. The petitioner/accused had been apprehended from the spot. There is no chance of his influencing the witnesses or feeling from the justice, hence he may be released on bail.

3. The FIR in this case has been registered on the basis of statement

made by Sh.Mahender Singh – the shopkeeper, who was running a shop under the name and style Balaji Handloom at Subzi Mandi, Ghanta Ghar, Delhi. On the date of occurrence i.e. on 18th October, 2016 at about 9.20 pm when after closing his shop, he was about to leave for his house, he allegedly saw two persons having some altercation and one out of them hit other person three-four times with a '*danda*' uttering the words '*Main Aaj Tujhe Jaan Se Maar Dunga*'. The complainant managed to overpower the assailant i.e. the petitioner and snatched the '*danda*' from him. The injured was identified as Ram Sanjeevan.

4. The MLC of the deceased disclose that when he was brought to the hospital he was found 'unfit for statement' and was referred to higher centre. The injured Ram Sanjeevan subsequently succumbed to the injuries on 27th October, 2016 and till then he was opined to be 'unfit for statement'.

5. As per the post-mortem report of the deceased, the cause of death was compression of brain due to head injury consequent upon blunt force impact to the head which is sufficient to cause death in an ordinary course of nature.

6. Merely because, the petitioner is in judicial custody since 19th October, 2016 in itself is no ground to enlarge him on bail in a heinous crime. (Rel. *State of U.P. v. Amarmani Tripathi* (2005) 8 SCC 21)

7. The contention of learned counsel for the petitioner that the offence made out against the petitioner is not under Section 302 IPC but under Section 304 IPC, cannot be dealt with by this Court as it is for the petitioner to argue before the learned Trial Court at the appropriate stage.

8. Taking into consideration the nature of allegations made by the complainant, who is an independent person and happened to see the incident when after closing his shop, he was allegedly about to leave for his house

and also hear him saying while repeatedly hitting on the head of the deceased with a 'danda' '*Main Aaj Tujhe Jaan Se Maar Dunga*' as well the nature of injuries suffered by the deceased i.e. head injury which was opined to be sufficient to cause death in an ordinary course of nature, I do not find it to be a fit case to enlarge the petitioner on at this stage.

9. The bail application is dismissed.

PRATIBHA RANI, J.

OCTOBER 13, 2017

'st'