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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 388/2018 & CRL.M.A. 3019/2018**
NAVEEN KUMAR @ LALA Petitioner
Through: Mr. Jitender Tyagi, Ms. Ananya Roy,
Mr. Rishi Bhardwaj, Advocates.
versus
THE STATE GOVT OF NCT OF DELHI Respondent
Through: Mr. Ashish Dutta, APP for State with
Insp. Ramesh Kumar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **23.03.2018**

The status report is on the record. Arguments addressed on behalf of either side.

On behalf of the applicant, it is submitted that the applicant seeks grant of regular bail submitting *inter alia* to the effect that he is in custody since 05.06.2015 and that he has been falsely implicated in the instant case and that the material witnesses examined in the matter, i.e., the material eye witnesses have all not supported the prosecution version in relation to assaults meted out by the petitioner with the other co-accused on Phool Miya since deceased.

The status report on the record indicates that the petitioner was running a Rehabilitation Centre, i.e., Lovely Life Foundation and Rehabilitation Centre, Dhaniram Colony and the deceased is alleged to have been assaulted by the petitioner and by other persons named Manoj and Vishnu Kant with a plastic danda (pipe) after tying his hand as stated by the witnesses, i.e., eye witnesses present at the Rehabilitation Centre at the time of the incident.

It has also been submitted on behalf of the State that as per the post-mortem report no. 719/2015 qua post-mortem conducted on 05.06.2015, there were external injuries, i.e, 15 bruises (reddish in colour) over the different parts of the body of the deceased mentioned by the doctor with it having been opined by the doctor that the cause of death was due to haemorrhagic shocks, consequent upon multiple repetitive blunt force trauma on all over the body and that the manner of death was homicidal and that all injuries were fresh and ante mortem in nature and that also the subsequent opinion regarding the weapons of offence also was to the effect that the injuries mentioned in the post-mortem report were possible with the *danda* examined or any other similar weapon and injuries mentioned in the post-mortem report were sufficient to cause death in the ordinary course of nature.

Inter alia reliance is also placed on behalf of the State on the DNA profile which further states to the effect that there was ethyl alcohol and pheniramine found in the pieces of liver, spleen and kidney of the deceased. The status report also indicates that ten of witnesses including the complainant out of the 60 prosecution witnesses have been examined and the matter is pending for trial and the application is thus vehemently opposed on behalf of the State submitting *inter alia* also to the effect that there is another FIR bearing no. 493/12, PS Vijay Vihar under Section 363 of the Indian Penal Code, 1860 also registered against the applicant.

On behalf of the applicant, it has been submitted that the applicant is on bail in FIR No. 493/12 under Section 363 of the Indian Penal Code, 1860 and he has already married the prosecutrix thereof,

which aspect is not refuted by the Investigating Officer present.

The statements of the stated eye witnesses who are alleged to have witnessed the assault on the deceased by the applicant and the other co-accused, PW-4 Jatin Chopra, PW-5 Sh. Kishan, PW-7 Narender, PW-9 Neeraj Kumar, PW-10 Devender all alleged witnesses have been relied upon on behalf of the petitioner to contend that all these witnesses had categorically stated that the applicant had not assaulted the deceased.

It has been submitted on behalf of the State that all these witnesses have been examined much after the date of the incident and that in their statements under Section 161 of the Cr.P.C., they had categorically made statements against the petitioner.

Without any observations on the merits or demerits of the case, taking the totality of the case into account, in the instant case where all the eye witnesses of the prosecution have been examined and do not support the factum of assault by the applicant against the deceased, it is considered appropriate to release the applicant on bail on his filing a bail bond in the sum of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned Trial Court subject to the conditions that he shall not leave the country and shall not tamper with the evidence in any manner.

The application is disposed of accordingly.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J

MARCH 23, 2018/NC