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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 443/2018**
VASIRAN Petitioner
Through: Mr. Jitender Tyagi, Adv.

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through: Mr. Ashish Dutta, APP for State with
SI Jitender Malik, PS ..

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **16.04.2018**

Status report in terms of proceedings dated 12.04.2018 has been submitted on behalf of the State, copy thereof be supplied to the learned counsel for the petitioner.

Arguments addressed on behalf of either side.

Vide the present application, the applicant seeks grant of anticipatory bail in relation to the allegations in FIR No.497/2017, PS Sangam Vihar, under Sections 302/2012 Indian Penal Code, 1860 submitting to the effect that there are no allegations comprising of any admissible evidence with the Investigating Agency as collected so far against the applicant apart from the disclosure statement of co-accused person involved in the instant case and all that the State seeks to contend is that the sons of the applicant are involved in several cases and that as a consequence thereof the applicant be also incarcerated. It has further been submitted on behalf of the applicant that there is no evidence of anyone having last seen the applicant with the

deceased, that the date of murder of Mr. Miraj has not been put forth by the State in any manner that the body of the deceased was found on 15.09.2017 in a decomposed state and as stated hereinabove there is no last seen evidence of any kind that has been ascertained by the Investigating Agency.

As submitted through the status report submitted by the State previously under the signatures of the SHO, PS Sangam Vihar dated 10.04.2018 and 26.02.2108 that much after the date when the body of the deceased was found on 15.09.2017, one Lakki was apprehended and his associates in the instant case Mr. Aakash, Neeraj Vikas and Munni Begum were arrested and after detailed interrogation and arrest of these persons, the identity of the deceased was revealed as Mr. Miraj s/o Samiullah and thereafter as per the status report the CDRs were obtained in relation to the conversation between Munni Begam, co-accused and the applicant.

As per the status report dated 10.04.2018 submitted, the State seeks to contend that on the date 8.09.2017 and 29.09.2017 there was conversation between the applicant and Munni Begum, being the step-sister of the deceased and that the deceased was harassing the daughter of the said Munni Begum and as per the prosecution version it was a stated case of contract killing, qua which submissions made on behalf of the applicant that none of the statements of the witnesses recorded under Section 161 Cr.PC, 1973 in any manner categorically named the applicant and even the salt seller vide statement dated 12.01.2018 has not put forth any allegation against the applicant having been involved at the time of the alleged purchase of a large quantum of salt which has been allegedly put on the decomposed body of

the deceased.

Reliance has been placed on behalf of the State on the statement dated 15.01.2018 under Section 161 Cr.PC, 1973 of Md. Nihal, brother of the deceased to contend that on the date 08.09.2017 the deceased had been left by the brother of the deceased Mohd. Nihal at the house of Munni Begum and that thereafter he never came back and that on enquiries made by Md. Nihal from Munni Begum in relation to the deceased, she gave no explanation and stated that he has merely gone away. The State has placed on record the CDR details of conversation between the applicant and Munni Begum on the date 08.09.2017 and has also submitted to the effect that against the applicant there are nine cases in which she is involved and that she is the mother of Mr. Samim, an accused with 41 cases against him, that the applicant is the mother of the co-accused Wakil with 15 cases against him, that the applicant is the mother of Mr. Shakil with 13 cases against him, that the applicant is the mother of Mr. Rahul Khan with three cases against him, that the applicant is the mother of Mr. Faizal with three cases against him and that the applicant along with her family members i.e. her sons is causing terror in the locality.

The status report that has been submitted today on behalf of the State pursuant to directions dated 12.04.2018 vide which the State has been directed to submit a status report in relation to the cases in which the applicant with her family members is arrayed as a co-accused and also in relation to the aspect of the previous convictions, if any, in relation to the 8 cases at the serial no. 1-8 in the status report dated 26.02.2018, indicates the conviction of the applicant under Section 61 of the Punjab Excise Act, 1914

in FIR No. 196/2002 where she has been sentenced to a fine of Rs.5,000/- or imprisonment for a period of three months vide order dated 29.10.2005 and states that the offences punishable under Sections 323/341/506/34 Indian Penal Code, 1860 in FIR No. 277/2006, PS Sangam Vihar have been compounded. Cases in relation to FIR No. 930/2004, FIR No. 99/2005, under Sections 61 of the Punjab Excise Act, 1914, FIR No. 393/2016, PS Sangam Vihar, under Sections 387/397/325/506/174A/34 Indian Penal Code, 1860 and Section 27 of the Arms Act are stated to be still pending.

The applicant's involvement along with her family members as submitted by the State through the status report is in FIR No. 85/2015 in which her son Wakil is co-accused and in FIR No. 393/2016, her son Wakil, Shakil and Sunni are stated to be the co-accused. It has also been submitted through the status report that in FIR No. 393/2016, PS Sangam Vihar, the applicant along with her sons demanded Rs. 20,000/- from a neighbour one Mr. Abdul Subham r/o I-Block, Gali No.20 and when he declined to make payment, the applicant along with her sons and other co-accused beat him and thereafter, the charge-sheet had been filed after investigation. The status report further submits that the applicant is the mother of other accused persons and she and her family members are involved in many cases and are causing terror in society and due to the criminal antecedents of herself and her family members, no one reports against them and the custodial interrogation of the applicant is required and the State has vehemently opposed the prayer made by the petitioner.

On behalf of the applicant it has been submitted in relation the status report submitted today to the effect that in relation to the FIR No.393/2016,

PS Sangam Vihar, under Sections 387/397/325/506/174A/34 Indian Penal Code, 1860 the complainant thereof has not supported the prosecution version against the applicant.

On a consideration of the totality of the circumstances of the instant case, though undoubtedly the applicant has a right to silence under Article 27 (3) of the Constitution of India, the status report dated 10.04.2018 that has been submitted by the State indicates the conversation between the applicant and the co-accused Munni Begum on 08.09.2017 from which date the applicant is indicated to be absent and that there have been conversations also made by the applicant with the said Munni Begum thereafter. The weapons of the offence in the instant case are yet to be recovered and also the conversations that have taken place between her and co-accused are yet to be ascertained and it is apparent that custodial interrogation of the applicant is required and thus the prayer made by the applicant seeking grant of anticipatory bail is thus declined and all interim protections are withdrawn.

ANU MALHOTRA, J

APRIL 16, 2018

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