

\$~9

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

+ **BAIL APPLN. 969/2018**

MOHD. DANISH Petitioner

Through: Mr. Z. Babar Chauhan, Advocate.

Versus

STATE Respondent

Through: Mr. Tarang Srivastava, Additional Public
Prosecutor for State with SI Dinesh Kumar,
P.S. Welcome.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **20.11.2018**

Issue notice.

Mr. Srivastava, the learned Additional Public Prosecutor accepts notice for the State.

The petitioner seeks bail. He has been in custody since 05.03.2014. He is a co-accused in the murder of his step-mother, by multiple stabs by a sharp edged weapon, shot from a firearm and assault with a blunt edged object.

The learned counsel for the petitioner submits that there is nothing specific in the FIR or other subsequent investigations apropos the petitioner's having shot the deceased by a gun; nor there was any weapon recovered from him; his co-accused Mohd. Anas has already been enlarged on bail. Another co-accused, Mohd. Nadeem, who is alleged to have stabbed the deceased, has been granted bail. However, Mr. Srivastava, the learned counsel for the State submits that the said co-accused, Mohd. Anas has been granted bail in the peculiar and compelling circumstance of his suffering from a severe spinal ailment.

The petitioner seeks bail on parity. He claims innocence and submits that since the deceased was a relative, he had gone inside the house for having water. He submits that it is possible that his chance fingerprints were picked up from the house on the basis of his having touched some object in the house, in particular the glass containing water. The petitioner relies upon the testimony of PW13-Dilshad to the effect that he had entered the house and had a glass of water.

The learned counsel for the petitioner submits that the person, who had inflicted 14 wounds on the deceased by a sharp edged weapon, had been granted bail and that the petitioner seeks parity on the said count, although he is not accused of such heinous and grave acts.

The learned counsel for the State submits that earlier when the petitioner was granted interim bail, he jumped the bail and had surrendered only after completion of proceedings under sections 82/83 Cr.P.C. initiated against him, perhaps when he realized that his immovable property would be auctioned.

Of the 42 prosecution witnesses, all public witnesses have been examined and the remaining 12 witnesses are police officials, over whom the petitioner cannot have any say or sway.

In view of the fact that a co-accused, who alleged to have stabbed the deceased 14 times has been released on bail and all but official witnesses remain to be examined, the petitioner is granted bail on him furnishing a personal bond in the sum of Rs.5 lacs with two sureties of the like amount to the satisfaction of the Trial Court concerned, subject to the following conditions:-

- (i) the petitioner will regularly appear on each and every date of hearing

to be fixed by the Trial Court concerned;

- (ii) the petitioner will not try to influence, contact or meet the complainant and prosecution witnesses in any manner;
- (iii) the petitioner will not leave the country without prior permission of the Court and the passport, if any, shall be deposited with the Trial Court concerned; and
- (iv) the petitioner shall furnish his mobile telephone number and the residential address to the jurisdictional SHO; he shall keep the said phone number operation at all times;
- (v) in case of change of his new address or contact number, the petitioner will promptly intimate to the SHO/IO of the case and intimate the Trial Court.

The petition stands disposed-off in the above terms.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the case.

The Registry is directed to send a copy of this order to the Jail Superintendent, concerned for information and a copy be given *dasti* to the learned counsel for the parties.

NAJMI WAZIRI, J.

NOVEMBER 20, 2018

sb