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

+ **BAIL APPLN. 976/2018**

**JAYANT**

..... Petitioner

Represented by: Ms.Chanan Parwani and Mr.Samar  
Kachwaha, Advocates

versus

**STATE**

..... Respondent

Represented by: Ms.Meenakshi Chauhan, APP for the  
State with Insp.Pawan Sharma, PS  
Bindapur

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

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**23.08.2018**

1. Status report has been handed over, which is taken on record.
2. By this application, the petitioner seeks bail in case FIR No.497/2017 under Section 304 IPC registered at PS Binda Pur. The investigation in the abovenoted case was set into motion on receipt of DD No.21A on 16<sup>th</sup> July, 2017 stating that one person has been beaten who is lying unconscious. On reaching the spot, the police officer got to know that the injured Manish @ Kake and his friend Jayant Dubey had a quarrel. PCR van took injured Manish @ Kake to DDU Hospital. In a room in House No.A-160, PH-1, Sector-3, J.J.Colony, Dwarka, New Delhi, blood was found however there was no eye witness to the incident.

3. On reaching DDU Hospital at 2:40 PM on 16<sup>th</sup> July, 2018 MLC of Manish @ Kake was prepared and the injury noted was CLW 2.5 cm x 0.5 cm, right foot dorsal aspect. The injury was opined to be simple in nature and by blunt object. It appears that primary treatment was given to Manish @ Kake at the hospital but he was not admitted and no further medical investigation carried out. While within the precincts of the hospital, Manish @ Kake was again brought in the emergency on 16<sup>th</sup> July, 2017 itself at 6:42 PM in an unconscious and unresponsive state with alleged history of found unconscious in hospital premises. This time he was brought by Rahul, the son of Manish @ Kake. On examination, the patient was declared brought dead. As per the post-mortem report, the cause of death has been opined to be cerebral haemorrhage consequent upon blunt force impact to the head which is sufficient to cause death in the ordinary course of nature. Further the opinion was kept pending for the opinion of the FSL Report qua the blood and viscera analysis to rule out unknown poisoning. It is thus apparent that Manish @ Kake was taken to the hospital with an external injury on the right foot which was treated however he suffered internal haemorrhage of the head due to the blunt force impact which was not noted when he was first attended in the hospital.

4. The abovenoted FIR was registered on the statement of Rahul aged 11 years on 17<sup>th</sup> July, 2017 who stated that on 16<sup>th</sup> July, 2017 at about 11:30 AM while he was playing outside his house, his father was present at home. His uncle Jayant Dube entered his house with a liquor bottle and both started consuming the liquor. Suddenly Jayant Dube left the house. When he went inside the house, he found his father lying on the floor and blood was oozing

out from his right foot. According to Rahul, his father told him that he and Jayant had a quarrel and Jayant hit him with a toilet seat kept in the room on the floor resulting in injury.

5. As noted above, from the post-mortem report, it is evident that the death of the deceased is not because of the injury to the foot but an injury to the head for which there is no eye witness. Be that as it may, the petitioner has been in custody for now more than one year and no witness has been examined by the prosecution. Consequently, this Court deems it fit to grant bail to the petitioner.

6. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹25,000/- with one surety bond of the like amount subject to the satisfaction of the learned Trial Court further subject to the condition that he will not leave the country without the permission of the Court concerned and in case of change of address, the same will be intimated to the Court concerned by way of an affidavit.

7. Petition is disposed of.

8. Copy of this order be communicated to the petitioner through Superintendent, Central Jail Tihar.

**MUKTA GUPTA, J.**

**AUGUST 23, 2018**

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