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

+ BAIL APPLN. 1567/2018 and CRL.M.A. 12254/2018, CRL.M.(Bail)
No.1085/2018

SHRI SAPAN DAS

..... Petitioner

Through: Mr. Jaspreet Singh Rai with
Mr. Akhil Abraham Roy, Mr. Rohit
Sharma & Mr. Manish Chowdhary,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Ashish Dutta, APP for State with
SI Sunil Kumar, P.S. Govind Puri.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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09.10.2018

The petitioner is facing trial in Sessions Case No.1358/2016 arising out of First Information Report (FIR) No.769/2014 of Police Station Govind Puri on the charge for the offence punishable under Section 302 read with Section 34 of Indian Penal Code, 1860 (IPC). He has been in custody since his arrest on 03.08.2014. As per the prosecution case, there were two victims of the offence of murder, Rohit Vyas, husband of one of them being prime suspect. The said Rohit Vyas and two others, namely, Abdul Rashid and Madan are absconding and since been declared proclaimed offender. By the application at hand, he seeks release on bail primarily arguing that the case for the prosecution against him has no basis.

The petitioner had earlier approached this court for similar relief by Bail Application No.1003/2017, his application with such prayer having been rejected by the trial court by its order dated 15.04.2017. It was noted that the question of charge had not been considered till that stage, the trial court requiring the assistance of the investigating officer for analysis on call detailed records (CDR) which are part of the material presented as evidence. The order dated 15.04.2017 that was passed was cryptic. Against the said backdrop, by order dated 26.05.2017, the trial court was directed to take up question on charge and also the request of the petitioner for release on bail on the date next fixed.

It is stated by the petitioner that by a subsequent order, the trial court *prima facie* found case for putting him on trial for the charge under Section 302/34 IPC. Copy of the said order finding charge to be made out has not been placed before the court. On being asked, the counsel for the petitioner submitted that copy of the said order is not available with him. He, at the same time, insisted that the order dated 21.02.2018 whereby the prayer for release on bail has been denied is not sound since the case for prosecution has no basis, there being no admissible evidence available to show his complicity. On being asked, the counsel conceded that the order framing charge has not been challenged before the revisional forum, it, thus, having attained finality. In this view of the matter, it is impermissible for the petitioner to argue that there is no case made out for he to be put on trial on the accusation of complicity in the offence of double murder.

The learned Additional Public Prosecutor for the State pointed out that the evidence on record includes not only telephonic contact around the

time of the two murders but also recovery of weapon of offence pursuant to the disclosure of the petitioner.

In above facts and circumstances, no case for release on bail is made out.

The petition and the applications filed therewith stand dismissed.

R.K.GAUBA, J

OCTOBER 09, 2018

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