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

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Judgment delivered on: 16.05.2018

+ BAIL APPLN. 2150/2017

BRAHAM SINGH

..... Petitioner

versus

STATE (THE NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. K. K. Manan, Sr. Advocate with Mr. Ajay Kumar Gaur, Mr. Anand Bhardwaj and Ms. Shivani Kher, Advocates.

For the Respondent : Mr. Akshay Malik, APP for the State.
Mr. Mukesh Gupta with Mr. Praveen Singh,
Advocate for complainant.
Insp. Darshan Lal, PS Alipur.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

16.05.2018

SANJEEV SACHDEVA, J. (ORAL)

BAIL APPLN. 2150/2017

1. The petitioner seeks Regular Bail in FIR No.36/2017 under Sections 302/341/323/34 IPC, Police Station Alipur. The allegations against the petitioner are that there is a property dispute between the

family of the complainant as well as the petitioner with regard to a plot of land opposite the house of the complainant.

2. It is alleged that on the fateful night the complainant was standing outside his house when two co-accused came and are alleged to have held him from behind and assaulted him. Thereafter, the father of the complainant (deceased) came on the spot and two of the co-accused caught hold of the father of the complainant (deceased) and started beating him with blows and kicks, on account of which, he sustained grievous injuries and when he was shifted to the hospital, he expired.

3. The allegations against the petitioner are that the petitioner had sent the co-accused for the purposes of assaulting the complainant and, accordingly, conspired in the subject offence.

4. Learned senior counsel appearing for the petitioner submits that the petitioner has been falsely implicated. It is contended that the petitioner was not at the scene of the incident, though was in vicinity as he had come to the said village to attend a marriage. He further submits that the MLC does not substantiate the fact that the deceased died on account of the injuries which are alleged to have been inflicted by the co-accused.

5. He further submits that the Trial Court, for the purposes of framing of charge, had taken expert opinion and summoned a doctor,

who after examining the medical report, had opined that the injuries mentioned in the column of external injuries in themselves were not sufficient to cause death in ordinary course of nature. Further, as per him, the medical report shows that there were fracture of underlined 2nd, 3rd, 4th, 5th and 6th left side ribs along midclavicular line as well as fracture of sternum and fracture of underlined 2nd, 3rd, 4th and 5th ribs of right side along midclavicular line. Further, the said doctor in his statement has stated that the internal injuries, mentioned in the Post-mortem Report, could be caused by Cardio Pulmonary Resuscitation (CPR) efforts and could be peri-mortem injuries though he stated that he could not rule out that person did not die because of some trivial injuries during scuffle. He further stated that abrasions as mentioned in external injury column could have precipitated an already compromised heart. It is an admitted position that the deceased was administered CPR.

6. Learned senior counsel for the petitioner contends that, in view of the MLC as well as the statement of the expert witnesses, it is not clear that the injuries sustained by the deceased caused his death. Learned senior counsel for the petitioner further contends that there is a CCTV footage of the incident which clearly belies the story of the prosecution that the deceased was assaulted as alleged and that the petitioner had conspired with the co-accused to commit murder. He further submits that the CCTV footage does not show that any weapon was used in the alleged offence or that even the deceased was

assaulted by anyone.

7. He submits that as per the medical report, the deceased, who was aged 75 years, already had a compromise heart and the death could have been on account of reasons other than the injuries sustained.

8. I have perused the record of the case. The CCTV Footage of the incident, produced by the Investigating Officer, has been played in court.

9. Without commenting upon the merits of the case, I am of the view that petitioner has made out a case for grant of regular bail. As per the Nominal Roll, the petitioner has been in custody since 16.06.2017 and, as on 20.01.2018, had undergone 7 months 4 days of incarceration.

10. In view of the above, the petitioner shall be released on bail, if not required in any other proceedings, subject to the petitioner furnishing a bail bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the Trial Court. The petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses. The petitioner shall not make an endeavour to contact either the complainant or family of the complainant. Since the petitioner is not a resident of the village Sungarpur, Police Station Alipur, where the subject incident happened, he shall not visit the said

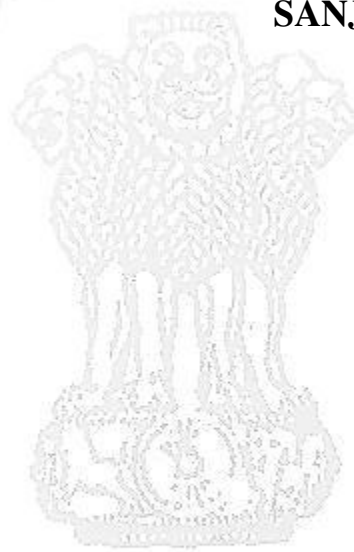
village. The petitioner shall not leave the country without the permission of the Trial Court.

11. The petition is disposed of in the above terms.

12. Order Dasti under the signatures of the Court Master.

MAY 16, 2018
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SANJEEV SACHDEVA, J



नस्यमेव जयते