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

+ **BAIL APPLN. 2/2018**

NIPIN RAJBANSI

..... Petitioner

Through: Mr. G.P.S. Divakar & Mr.JAved
Ahmad, Advocates.

versus

STATE OF NCT DELHI

..... Respondent

Through Mr. Kamal Kr. Ghei, APP for State
with Insp. Rajender Singh, PS Mayur
Vihar.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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16.04.2018

The status report has been submitted by the State.

On behalf of the applicant, it has been submitted that he has been in custody for 2 years and 8 months and there is no direct evidence against the applicant and that even the circumstantial evidence stated to have been collected by the Investigating Agency does not bring forth any allegations against the applicant qua the alleged commission of the offence punishable under Section 302 r/w 34 of the Indian Penal Code, 1860 and that the circumstantial evidence also does not nail the applicant.

It has also been submitted on behalf of the applicant that the star witness of the prosecution, i.e., Mr. Sulabh Das is not traceable even as per the status report submitted by the State and thus no useful

purpose will be served by further incarceration of the applicant in custody and that he be thus be released on bail.

The status report submitted and submissions that have been made on behalf of the State are to the effect that at the instance of the applicant, a piece of stone with which the head of the deceased was crushed had been recovered from the Yamuna river and that clothes were also recovered at the instance of the applicant and the co-accused, (i.e., the co-accused in the instant case who is in judicial custody) and that at the time of death of the deceased is also corroborated by the applicant and the co-accused having been last seen with the deceased as per the statement under Section 161 of the Cr.P.C. of Mr. Sulabh Das who is the star witness in the instant case.

The State has also stated to the effect that the FSL report has indicated that on the exhibits, i.e., gauze cloth piece of deceased and the clothes of the deceased, blood was detected though, it has been submitted now in reply to a specific court query that the DNA profile could not be generated due to degradation of the samples. The status report also indicates that the star witness is yet to be examined and that he is not available presently.

The State also apprehends through the status report that the evidence would be tampered with in the event of the applicant being released on bail.

Taking into account the allegations against the applicant and the statement under Section 161 of the Cr.P.C. of the star witnesses (who is yet to be examined) qua the applicant's alleged involvement with the stated time of death and the time that the applicant was last

seen with the deceased being allegedly corroborating the post-mortem report and the factum that the alleged weapon of offence having been recovered at the behest of the applicant, there is no ground for grant of bail.

The application is declined.

ANU MALHOTRA, J

APRIL 16, 2018
NC