

\$~4

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 01st April, 2019

+ BAIL APPLN. 246/2019

SATBIR RANA

..... Petitioner

Through: Ms. Geeta Luthra, Sr. Advocate
with Ms. Anjana Ahluwalia, Advocate

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for State
Mr. Pradeep Teotia and Mr. Siddharth
Chaturvedi, Advocates for the complainant

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner alongwith others, including his son Nikhil Rana, is facing prosecution in sessions case (no.1422/2016 – old no.09/15) arising out of the reports (charge-sheets) under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) submitted upon conclusion of investigation of first information report (FIR) no.507/14 of police station Ghazipur, and the charge for offences under Sections 302, 120-B read with Section 34 of Indian Penal Code, 1860 (IPC) and for substantive offences under Sections 201 and 202 of IPC. The case relates to homicidal death (murder) of one Vinod, by fire-arm injuries inflicted at about 9.00 p.m. on 21.07.2014 in the area of Toll tax,

Ghazipur, NH-24, Ghazipur. It may be mentioned here that according to the case for prosecution, Nikhil Rana, son of the petitioner herein, is the person who used the firearm to commit the murder, the weapon alongwith certain ammunition statedly having been recovered from his possession, at his instance on 15.10.2014, from its place of concealment in an almirah at the second floor of house no.B-63, Gali no.6, Gazipur Dairy Farm, where both, the petitioner and Nikhil Rana, were residing. The other persons facing trial include Brijesh, Rupesh and Parth Sharma.

2. Parth Sharma was enlarged on bail by this court by order dated 05.07.2018 on his bail application 251/2018. Brijesh was released on bail, on parity with Parth Sharma, by order dated 01.11.2018, on his bail application no.2607/2018. Rupesh was also released on bail, on parity with Brijesh, by order dated 25.01.2019, on his bail application no.2839/2018.

3. The petitioner herein had earlier moved application for bail (no.1701/2018) which was withdrawn, liberty having been taken to approach the Court of Sessions by a fresh application, earlier request to that effect having been declined. The trial court has not granted bail to the petitioner, his application having been lastly dismissed on 28.11.2018.

4. As per the prosecution case, Nikhil Rana had shot Vinod Kumar to death on account of past enmity arising out of conduct of the said victim it having enraged his father (the petitioner) on account of he (the deceased) having displaced him from the “*pradhani*” of Ghazipur

Dairy Farm and having caused him huge monetary loss by dealing in the sale-purchase of a property described as bearing no.C-42, Ghazipur Dairy Farm, known as “*Kasturi Ki Dairy*”, inspite of being asked by the petitioner to desist from indulging in any such transaction. It may be mentioned here that there is evidence available to show that both the petitioner and the deceased were engaged in the business of property dealing. There is also evidence adduced to show that on account of the said past enmity, the petitioner had extended threats to the victim, his conduct after the offence of murder also having reflected connection between the said event and the deal concerning “*Kasturi Ki Dairy*”, suspicion in this regard having been raised on account of he having confronted Sanjay, the elder brother of the deceased on such lines.

5. Reliance is placed on *Avtar Singh vs. State of Punjab*, (2010) 15 SCC 529 and decisions of learned single judges of this court in *Pankaj @ Mintu vs. Govt. of NCT of Delhi*, 2016 SCC Online Del 2328 and *Rahul Tongaria vs. NCT of Delhi & ANR*, 2016 SCC Online Del 4501 to seek parity with the three accused persons who have been enlarged on bail. The submission is unacceptable as there is no parity. A role was attributed to the said three persons as to they having aided and abetted Nikhil Rana in carrying out the murder. In contrast, the motive for the crime is traced to the petitioner, the father of the assailant, respecting which the prosecution case also depends on material showing efforts to destroy evidence rendering him not only a co-conspirator but also an accessory after the fact.

6. The learned senior counsel was at pains to argue that the case against Nikhil Rana is not worthy of reliance. She made a lengthy presentation to point out some dis-similarities in the evidence of the prosecution respecting the events in the run up to the murder. Her submission was that the theory of the deceased having offered an affront to the petitioner on account of “*Pradhani*” is misplaced since the petitioner had been a candidate only for the office of *Pradhan* of the *Panchayat* of a village in Baghpat (U.P.) in the year 2010, there having been no occasion for him to fight such election in the area of Ghazipur, even otherwise there being no office of *Pradhan* in any *Panchayat* of Ghazipur, it being under the control of a municipality. The learned counsel for the complainant, who also appeared to oppose the application, assisting the public prosecutor, however, clarified that it is not the office of *Pradhan* of a *Panchayat* for which there had been a dispute between the deceased and the petitioner. It was submitted that the allottees / occupiers of different plots of land in the Ghazipur Dairy farm area, developed by the State agencies, had propped up an association of which a *Pradhan* would be elected, the petitioner having earlier occupied the position of strength in such capacity, he having been displaced eventually by the deceased, this having invited the wrath of the former.

7. The learned senior counsel argued that the deal over the plot of land described as “*Kasturi ki Dairy*” had led to two transactions being indulged in, one concededly brokered through the deceased, the petitioner being constrained to file a civil suit against the party with

which the agreement to sell had been entered. These submissions, it may be observed, only reinforce the prosecution case that there had been a cause for dispute between the petitioner and the deceased, the stakes apparently being quite high.

8. Be that as it may, given the nature of evidence which is in the process of being presented before the trial court, it will be inappropriate in these proceedings for this court to start parallel scrutiny, particularly a meticulous one to examine and comment upon the credibility or otherwise of the prosecution case or the evidence led in its support. Suffice it to state that the case involves charge of heinous and grave offences. There is substantive material presented to show not only privity but also and, more importantly, complicity on the part of the petitioner, the motive of crime being traced to him. In these circumstances, no case for release on bail at this stage of the criminal trial is made out.

9. The petition is dismissed.

R.K.GAUBA, J.

APRIL 01, 2019

yg