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\$~1 to 6 (*common order*)

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

+ **BAIL APPLN. 440/2019 and Crl.M.A.3892/2019**
SAJAN

..... Petitioner

Through: **Mr. Ravindra Narayan, Adv. with**
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: **Ms. Meenakshi Chauhan, APP for the**
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

+ **BAIL APPLN. 441/2019 and Crl.M.A.3893/2019**
SANDHYA GUPTA

..... Petitioner

Through: **Mr. Ravindra Narayan, Adv. with**
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: **Ms. Meenakshi Chauhan, APP for the**
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

+ **BAIL APPLN. 442/2019 and Crl.M.A.3895/2019**
ARJUN

..... Petitioner

Through: **Mr. Ravindra Narayan, Adv. with**
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: **Ms. Meenakshi Chauhan, APP for the**
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

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+ **BAIL APPLN. 443/2019 and Crl.M.A.3896/2019**
RAJAN

..... Petitioner

Through: Mr. Ravindra Narayan, Adv. with
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Chauhan, APP for the
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

+ **BAIL APPLN. 444/2019 and Crl.M.A.3897/2019**
JAGDISH @ JAGGA

..... Petitioner

Through: Mr. Ravindra Narayan, Adv. with
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Chauhan, APP for the
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

+ **BAIL APPLN. 445/2019 and Crl.M.A.3898/2019**
SARVESH GUPTA

..... Petitioner

Through: Mr. Ravindra Narayan, Adv. with
Mr. Raghav Narayan, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Chauhan, APP for the
State with Insp. Satish Rana, SHO, SI
Nagender Nagar, PS Govindpuri.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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23.07.2019

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The background facts and some of the issues that arise for decision on these anticipatory bail applications were noted in the proceedings recorded on 21.02.2019 as under:-

“Allegations have been made against the petitioner in case FIR no. 432/2018 of police station Govind Puri involving offences statedly committed under Sections 323/325/452/379/506/34 IPC, the incident alleged to have occurred on 01.12.2018. The FIR, it is pointed out, was lodged on 24.12.2018 with no explanation for delay. It is also pointed out on behalf of the petitioners that they had already lodged with the same police station Govind Puri FIR no. 411/2018 involving offences under Sections 341/323/325/308/34 IPC respecting the same very incident that had occurred on 01.12.2018. The petitioners point out another incident had occurred on 02.12.2018 involving offences under Sections 427/436/506 IPC respecting which another FIR no. 413/2018 was registered with police station Govind Puri on 03.12.2018. It is submitted that grievous and life threatening injuries were inflicted on Sarvesh Gupta, one of the petitioners.

The petitioners had earlier approached the court of Sessions for anticipatory bail but their applications were declined. It appears reference came to be made at the time of hearing before the court of Sessions as to the death of two persons in the family of the first informant of FIR no. 432/2018.

On being asked, the additional public prosecutor submitted that the two persons who have died were named Radhey Shyam and Sanjeev but, in all probability, the said deaths are not connected to the incident which is the subject matter of this FIR. It is submitted that report of post mortem on the dead body of Radhey Shyam has been received it indicating the death to be due to natural causes, the post mortem report of the examination of the dead body of Sanjeev being still awaited.

The State will file a detailed status report clarifying all aspects including the background facts and status of the three above-mentioned FIRs.

BAIL APPLN. 440/2019 etc.

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Be listed on 3rd April, 2019.

Till then, there shall be no coercive steps against the petitioners subject to they joining investigation as and when called upon to do so."

In compliance with the directions in the previous orders the SHO Police Station Govindpuri has submitted an up-dated status report dated 22.07.2019. Whilst as per the said status report and the copy of the post-mortem examination report dated 04.12.2018, presently there is no dispute that the death of Radhey Shyam on 02.12.2018 was for natural causes (chronic lung disease and its complications), there is no clarity yet as to the cause of death of Sanjeev which occurred on 01.02.2019, the viscera report being still awaited.

The prime argument of the petitioners is that the case does not involve the offence of culpable homicide even on the basis of the observations in the interim report of autopsy doctor vis-a-vis the dead body of Sanjeev, the inordinate delay in lodging of the FR having not been explained. While the argument of delay is sought to be rebutted by the investigating agency through the Additional Public Prosecutor on the ground there was a death in the family of the complainant on the very next date after the incident, that aspect cannot be finally adjudicated upon at this stage of the legal/judicial process. The police is still in the process of gathering evidence.

Be that as it may, in the facts and circumstances which prevail, it seems just and proper that the petitioners are granted interim protection, though with the rider that such protection would be liable to be revisited in the event of the investigating agency having reasons to add the offence of

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culpable homicide (whether amounting to murder or nor amounting to murder) to the case, based on final autopsy report or some other evidence that may come up during the ongoing probe.

In view of the above, these petitions are allowed. Thus, it is directed that in the event of the petitioners being arrested, they shall be released on bail by the arresting officer on furnishing personal bond in the sum of Rs.30,000/- with one surety in the like amount each, subject to the following further conditions:-

- (i) The petitioners shall continue cooperating with the investigation and join the same as and when called upon to do so;
- (ii) The petitioners shall not come in contact with or try to influence any of the witnesses connected to the case;
- (iii) Prior to their release, they shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the investigating officer;
- (iv) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence;
- (v) They shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit their passports, if they hold one, with the said court.

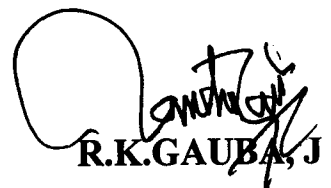
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This order will inure only till the date of first appearance of the petitioners in the event of a charge-sheet being filed on conclusion of the investigation and process being issued against him by the court of cognizance.

It is added that in the event of the investigating agency gathering evidence showing involvement of the offence of culpable homicide (whether amounting to murder or not amounting to murder), the order passed as above would be liable to be revisited for which the investigating agency is at liberty to approach this court after serving a notice of three days on the petitioners.

The petitions stand disposed of in above terms.

Dasti under the signatures of Court Master.


R.K. GAUBA, J

JULY 23, 2019

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