

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

Date of decision: November 22, 2019

+ **BAIL APPLN. 826/2019**

ASHU PAL

..... Petitioner

Through: **Mr. Sumit Chaudhary &
Ms.Aakansha Bansal, Advocates**

Versus

STATE

..... Respondent

Through: **Ms. Neelam Sharma, Additional
Public Prosecutor for State with SI
Deepak
Mr. Rajeev Saxena & Mr. Rachit
Sahney, Advocates**

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J (oral)

The instant bail application has been preferred by petitioner seeking bail in FIR No. 335/2017, under Section 302 IPC, registered at police station Jahangirpuri, Delhi. Petitioner is said to be in custody since 25th July, 2017 and is facing trial in this FIR case, which is pertaining to the murder of a lady-*Simran Kaur* with whom petitioner had been living for the last five-six years. As per the FIR, the lady was married to the petitioner, whereas the complainant-*Gaurav*, who is brother of deceased lady, has stated in his statement recorded before the SDM that his sister was residing with petitioner with her own consent.

The bail application is vehemently opposed by learned Additional Public Prosecutor for respondent/State, who submits that the applicant/petitioner had physical relations with the deceased on the pretext of marriage and FIR No. 763/2014, under Section 376 IPC at police station Mahender Park, Delhi and another FIR No. 296/2016, under Section 376 at police station Jahangir Puri, Delhi, were got registered by the deceased herself.

Learned counsel for petitioner submits that in FIR No. 763/2014, petitioner stands acquitted and in FIR No. 296/2016, trial is at the stage of recording of prosecution evidence. Petitioner's counsel further submits that in the instant case, evidence of four prosecution witnesses has already been recorded and the main eye witness i.e. the complainant-*Gaurav* has not supported the prosecution version before the learned SDM at the time of recording of his statement on 23rd July, 2017. He further submits that, however, strangely on the same day FIR in question was registered by twisting the facts and on different grounds. Attention of this Court has been drawn by learned counsel for petitioner to the examination-in-chief of complainant recorded before the learned Additional Session Judge on 17th September, 2018 wherein the complainant has not supported the prosecution case at all.

Learned Additional Public Prosecutor for State submits that there may be scientific or forensic evidence which is yet to be recorded and, therefore, petitioner may not be released on bail.

Upon hearing learned counsel representing both the sides and on perusal of testimony of complainant-*Gaurav*, who is the brother of the

deceased and other material placed on record, I find that complainant-*Gaurav* has *prima facie* not supported the prosecution version and has rather stated before the Court in his deposition that he was threatened by the police officials that if he did not make statement against petitioner, he would also be roped in this case as an accused.

In view of the above facts appearing on record and submissions of learned counsel for the petitioner, without commenting on the merits of the case, petitioner is directed to be released on bail upon his furnishing a personal bond in the sum of Rs.25,000/- with one local surety in the like amount, to the satisfaction of the trial court.

In aforesaid terms, the bail applications stands disposed of.

NOVEMBER 22, 2019

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(BRIJESH SETHI)
JUDGE

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