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

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Judgment delivered on: 22.01.2019

+ BAIL APPLN. 1737/2018

ANKIT SAXENA

..... Petitioner

versus

STATE GNCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. G.S. Sharma with Mr. R.A. Sharma and Mr. V.K. Sharma, Advocates.

For the Respondent: Mr. Hirein Sharma, APP for the State. SI Pankaj Kumar, PS Karawal Nagar.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 209/2016 under Section 302 IPC, Police Station Karawal Nagar.

2. Parties are related to each other. The petitioner is the son of the brother of the deceased. Both the parties live in the same house but on different floors. It is alleged in the FIR that a dispute took place between the parties which led to a verbal altercation. It is alleged that the sister of the petitioner, who lives on the ground floor, started abusing the complainant and her husband, who were on the first floor. The husband

of the complainant, i.e. the deceased went down to pacify her. However, she did not calm down. It is alleged that at the time when the dispute had occurred, the deceased was cutting vegetables with a knife and without realizing that he had knife in his hands, he came down stairs to pacify the sister of the petitioner. It is alleged that in the heat of the moment the deceased accidentally stabbed the sister of the petitioner on her thigh with the knife, seeing which, it is alleged, the petitioner got angry and snatched the knife and stabbed the deceased on his left leg. The deceased expired on the same day.

3. Initially, the FIR was registered under Section 302 IPC and after investigation, chargesheet was also filed under Section 302 IPC, however, on perusal of the record, the Trial Court has framed charge under Section 304 Part I IPC.

4. Learned counsel for the petitioner submits that the petitioner is a young boy of 21 years of age and even as per the averments in the FIR, the entire incident happened on the spur of the moment and in fact the FIR reveals that it was the deceased who was the perpetrator of the offence as he was the one who had brought the weapon to the scene and first stabbed the sister of the petitioner. Learned counsel for the petitioner further submits that the petitioner has been in custody since 10.06.2016.

5. On 29.11.2018, when this matter was taken up, the police file was perused by the Court and on perusal of the MLC, it was found that the cause of death had not been stated by the Medical Officer and it was

reported in the MLC that the cause of death would be given after receipt of histopathological examination report. The Medical Officer, GTB Hospital was directed to expedite the process of examination of histopathological report and provide the cause of death.

6. Status report has been filed today along with the subsequent opinion from the Department of Forensic Medicine, GTB Hospital. The same is taken on record. The report states that on analysis of the post-mortem report, viscera analysis report and histopathological report, the opinion is that the death was caused due to “coronary artery disease”.

7. Without commenting on the merits of the case and keeping in view the totality of facts and circumstances of the case, I am satisfied that petitioner has made out a case for grant of regular bail. Accordingly, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court, petitioner shall be released on bail, if not required in any other case. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses.

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

9. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 22, 2019
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