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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2958/2019

NARESH @ SHERU

..... Petitioner

Through: Ms. Manika Tripathy, Mr. Ashutosh
Kaushik, Mr. Brahm Pandey & Ms.
Bitisha Singh, Advocates.

versus

STATE

..... Respondent

Through: Ms. Meenakshi Dahiya, learned APP
for State.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.02.2020

The status report has been submitted by the State in relation to the three other cases detailed in proceedings dated 10.01.2020, which states to the effect:-

“(i) FIR No.10/2010 u/s 324/34 IPC PS Najafgarh, New Delhi. The accused/applicant has compromised with another party in this case vide order dated 07.04.2011 by Sh NK Laka, MM, Dwarka Court, ND.

(ii) FIR No.439/2010 u/s 302/201/34 IPC PS Najafgarh, New Delhi. The accused/applicant has been acquitted by the Trial Court vide order dated 22.05.2012 by Sh.Virender Bhat, ASJ, Dwarka Court, ND.

(iii) FIR No.37/2014 u/s 365/302/201/34 IPC PS Palam Village, New Delhi. The accused/applicant has been acquitted vide order

dated 24.02.2016 by Sh. Paramjit Singh, Addl. Session Judge, Dwarka Court, ND.”,

thus, apparently there are no incriminating previous adverse antecedents against the applicant.

On behalf of the applicant, it has been submitted that there is nothing whatsoever which can be termed to be any incriminating evidence sufficient to incriminate the applicant qua the alleged commission of the offence punishable under Section 302 r/w Section 34 of the Indian Penal Code, 1860, in as much as, apart from the statement of the complainant who has attributed alleged animosity between the petitioner and the deceased of his having stated that he had last seen the petitioner with his brother since deceased, there is nothing else that suffices to negate the grant of bail to the applicant. It has also been submitted on behalf of the applicant that even the alleged Gamchha with which the deceased was allegedly strangled as per the FSL report, does not bring forth any corroboration in relation to the utilization of the same bearing any blood stains or otherwise of the deceased on the *gamchha* which is stated to have allegedly been recovered pursuant to the alleged disclosure statement made by the applicant.

On behalf of the State, the application is vehemently opposed placing reliance on the statement made by the complainant which forms the basis of the FIR itself stating *inter alia* to the effect that he had last seen his brother since deceased with the applicant only at about 10.15 PM on 05.12.2016.

It has been considered essential to peruse the post mortem

report which is stated to be dated 06.12.2016 of the post mortem conducted at 2.45 PM at Rao Tula Ram Memorial Hospital, Jaffarpur Kalan, New Delhi which gives the time of death as being approximately 12 to 24 hours as per the inquest report.

Without any observations on the merits or demerits of the trial in progress, in the circumstances, presently, there is no ground for grant of bail.

The application is thus, declined.

ANU MALHOTRA, J

FEBRUARY 13, 2020

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