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

+ **BAIL APPLN. 2801/2019**

KISHAN @ RAM KISHAN

..... Petitioner

Through: Mr Ravindra Narayan and Mr Raghav
Narayan, Advocates.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **30.01.2020**

1. The petitioner has filed the present petition, *inter alia*, seeking bail in connection with FIR No. 63/2017 under Sections 302/34 of the IPC and Sections 25/27 of the Arms Act, 1959 registered with PS Adarsh Nagar.
2. The allegation against the petitioner is that he, along with his brother and father, had murdered one Munna on 08.02.2017. The petitioner's brother had taken Munna to the hospital and he was declared dead at 09:20 p.m. The post-mortem of the deceased was carried out which indicates that he died due to haemorrhage, secondary to injury to the pulmonary artery, by a sharp cutting/stabbing instrument. It is opined that such injury (injury no.7) was sufficient to cause death in the ordinary course of nature.
3. During investigation, the statement of an eye witness (the sister of the deceased) was also recorded under Section 161 of the Cr.P.C., wherein she had stated that at about 08:30 p.m. her brother Munna was called by the petitioner and his brother Sagar. She deposed that thereafter, she saw Munna being beaten by the petitioner on the first floor of their house. It is stated that

the petitioner had held Munna and he was stabbed by Sagar and thereafter, their father had pushed him from the first floor of the said house.

4. The status report indicates that the knife used was also subsequently recovered at the instance of Sagar (the petitioner's brother) from the house on 12.02.2017. Expert evidence obtained also supports the view that the injury mentioned in the post-mortem report could be inflicted by the recovered knife. It is stated in the status report that forensic report also indicates that the blood detected on the recovered knife is that of the deceased.

5. The learned counsel appearing for the petitioner submits that evidence recorded during the course of the proceedings clearly raises several doubts as to the case set up by the prosecution. He states that first of all the statement of the eye witness, who was sister of the deceased, was recorded four days after the date of the incident. He further submits that although she claimed that she had called on 100 number, the recording produced does not support the said version.

6. He further states that since all material witnesses have been examined, there is no risk of the petitioner tampering with the evidence and further, there is also no flight risk.

7. Ms Dhalla, learned APP states that all witnesses for the prosecution except one have been examined. Only the Investigating Officer remains to be examined and his examination is scheduled on 09.04.2020.

8. Considering the stage of trial and the other circumstances of this case,

this Court is not persuaded to accept the present prayer. Considering the gravity of the offence and the stage of the trial, this Court is unable to accept that there is no risk of the petitioner attempting to flee from the law.

9. In view of the above, the present petition is dismissed. However, the Trial Court is requested to complete the trial as expeditiously as possible and preferably, within a period of six months from today.

10. Order *dasti* under signature of the Court Master.

VIBHU BAKHRU, J

JANUARY 30, 2020
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