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

+ **BAIL APPLN. 134/2020**

JACKY

..... Petitioner

Through: Mr Vikram Hegde, Mr Anurag, Ms
Nishika and Mr Shantanu Lakhotia,
Advocates.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State with
SI Parvesh, PS Bhalswa Dairy.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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02.03.2020

1. The petitioner has filed the present petition seeking bail in connection with FIR No. 0694/2016 under Sections 302/120B of the IPC registered with PS Bhalswa Dairy.
2. The said FIR was registered on 30.12.2016 on the basis of information that a quarrel had taken place between the complainant's son (Chanchal) and Vikram and his associates. It is the prosecution's case that on 30.12.2016, during the evening, Chanchal (deceased) was watching TV and his mother was cooking food in the kitchen. At about 9:00 p.m., some boys knocked on the main gate. Chanchal opened the gate and Vikram, along with other co-accused, namely Irshad, Bablu, Vishnu, Rahul, Jacky Kaalu, Bapu and Praveen entered the house forcibly.

3. The mother of the deceased had stated that she had seen Vikram stab her son while other boys had caught hold of him. It is alleged that the petitioner was one of the boys who had caught hold of the deceased while Vikram had inflicted fatal blows on him. The petitioner was sixteen years on the date of the occurrence. An assessment was conducted by the Juvenile Justice Board under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereafter the 'JJ Act') and it found that the petitioner had the mental and physical capacity to commit a crime and to understand the consequences thereof. Accordingly, the petitioner has been tried as an adult in terms of Section 18(3) of the JJ Act.

4. The petitioner has been in custody for a period of three years. The trial of some of the co-accused has already been completed, while some other co-accused are absconding. In the given circumstances, this Court is of the view that there is little possibility of the petitioner now influencing other witnesses. It is also seen that the principal witnesses are the immediate family members of the deceased.

5. The learned counsel appearing for the petitioner has also referred to the judgment of this Court in *A.C. v. State (NCT of Delhi): Bail Appln. 657/2019, decided on 28.03.2019*, wherein this Court had held that Section 12 of the JJ Act would also be applicable to a CCL, who is being tried as an adult by virtue of Section 18(3) of the JJ Act. The Court observed that the considerations for denial of bail to such person (CCL), as provided under the proviso to Sub-section (1) of Section 12 of the JJ Act, include the existence of reasonable ground for believing that (i) the release is likely to bring the CCL into association with any known criminal; (ii) expose the CCL to

moral, physical or psychological danger; or (iii) it would defeat the ends of justice.

6. In the present case, this Court is unable to accept that releasing the petitioner on bail would fall foul of any of the considerations as mentioned in the proviso to Sub-section (1) of Section 12 of the JJ Act. The petition is, accordingly, allowed.

7. The petitioner shall be released on bail on his furnishing a personal bond in the sum of ₹10,000/- and two sureties of an equivalent amount to the satisfaction of the concerned trial court. The petitioner shall also provide his contact number and ensure that he is reachable at all times. He shall also report to the local police station on first Monday of each calendar month.

8. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

MARCH 02, 2020
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