

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

Reserved on : 17.02.2020
% *Pronounced on* : 19.03.2020

+ **BAIL APPLN. 153/2020**

CHANDAN KAUR

..... Petitioner

Through: Mr. Ramesh Gupta, Sr. Advocate with
Ms. M. Begum, Mr. Ajay P. Tushir,
Mr. Shailendra Singh, Mr. Sahil &
Mr. Mankaran Singh, Advocates.

versus

STATE

..... Respondent

Through: Ms. Rajni Gupta, APP for the State
with Inspector Ram Kishan, PS
Sagarpur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J.

1. This petition is filed by the petitioner with the following prayer:-

“Grant regular Bail to the Applicant in terms of Section 439 of the Cr.P.C 1973 in relation to F.I.R. No. 0321 of 2019 registered under Sections 302 of IPC 1860 at PS Sagarpur.”

2. The brief facts of the case are that on 13.7.2019 at about 9.46 pm, an information vide DD entry no. 56A was received in Police Station, Sagarpur, in which a lady caller described that “at

Gali No.6, Tent Wala School, Main Sagarpur, New Delhi lady caller ke husband ko kisi ne mara hai kafi injured hai”. The call was marked to ASI Jagbir Singh for taking necessary action. He reached the spot where he saw that some public persons were present at the spot and blood was lying on the floor in the house near Main Gate, and from local enquiry it was revealed that the injured had been shifted to DDU Hospital through PCR Van. No eye witness was found at the place of occurrence. When the IO reached the hospital he found that injured Sharukh was admitted vide MLC No. 6364/19 and doctor had declared him brought dead. ASI Jagbir again reached the spot where senior officers were present and crime team had inspected the scene of crime and conducted investigation. On local enquiry, it was revealed that that the injuries were caused by one Joginder Singh @ Joga. So on the basis of PCR Call and MLC of the deceased the present case was registered. When the IO reached at DDU Hospital, there he met with the wife of deceased namely Ms. Alia Ali, who claimed herself to be the eye witness of the incident and her statement was recorded. During the course of investigation her statement was further recorded under Section 164 Cr.P.C.

3. It is submitted by the learned senior counsel for the petitioner that the petitioner has been falsely implicated and she cannot be held liable for the acts of her son. He further submitted that ‘exhortation’ in itself is a very weak piece of evidence and

relied upon *Jainul Haq Vs. State of Bihar AIR 1974 SC 45*. He further submits that the wife of the deceased was not the eye witness of the case and she has been introduced later on by the prosecution. He has relied upon some Google Map in order to bring home the point that it was not possible for the wife of the deceased to have reached the place of incident within the time frame as stated by her because distance between the two places is 2.4 km and travel time is 12 minutes.

4. On the other hand, learned APP for the State submitted that the wife of the deceased had specifically attributed role to the petitioner in her statement. It is further argued by learned APP that apart from 'exhortation' there are other allegations against the petitioner like removing the trace of blood and destroying the vital piece of evidence. It is further argued that the allegations are grave and serious in nature and petitioner was involved in the incident since the beginning of the assault and later on she ran away from the spot along with the other co-accused persons.

5. It is further submitted that petitioner though is an old lady but she is a hardened criminal having 18 cases against her. The wife of the deceased was examined under Section 164 Cr.P.C and in that statement she had made specific allegations against the petitioner. The incident as per the prosecution not only took place outside the house of the accused but also inside the house of

the accused. The contention of learned senior counsel for the petitioner that 'exhortation' is a weak piece of evidence and his reliance on *Jainul Haq (supra)* is of no help to the petitioner because apart from exhortation, there are also other serious allegations made by eye witness against her. The contention that the petitioner is an old lady and is entitled to bail also does not cut much ice because the petitioner though old but is a tough lady having 18 cases pending against her. As per the allegations she is an active player in the commission of the crime.

6. As far as the question as to whether the complainant was present at the spot or not and his reliance upon Google Map in order to doubt the presence of the eye witness at the spot all are matter of trial.

7. Keeping in view the allegations and seriousness of the offence, no grounds are made out for grant of bail. Dismissed.

RAJNISH BHATNAGAR, J

MARCH 19, 2020/ib