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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPL. 275/2020**

MAYSER Petitioner
Through: Mr. Pankaj Srivastav, Advocate.

Versus

STATE NCT OF DELHI Respondent
Through: Mr. Amit Ahlawat, APP for State.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER
% **27.05.2020**

1. The present bail application has been filed under Section 439 read with Section 482 Cr.P.C. for grant of bail in FIR No. 326/2016 under Sections 302/307/452/427/147/148 IPC registered at P.S. Vikas Puri. During the pendency of the present bail application, the applicant has also moved an application bearing CrI. M.B. 6329/2020 seeking interim bail on the ground of her own illness as well as illness of her daughter namely, Nargis.
2. Status report has been filed on the merits of the case as well as on interim bail application.
3. With the consent of the parties, the bail application is taken up today for hearing.

4. Learned counsel for the applicant submits that the applicant is a lady of 45 years of age and is in custody since 25.03.2016. He further submits that even as per the charge-sheet, the role of the applicant is only of instigation. He has referred to the testimony of PW-20 Vikas Sethi (brother-in-law of the deceased) wherein, in the examination-in-chief, he has not specifically mentioned the presence of any woman at the spot. Learned counsel has also referred to the cross-examination of PW-20 wherein after seeing the CCTV footage, the witness admitted that the applicant was not seen carrying any weapon. It has been further stated that as per the charge-sheet and the statements of PW-1 Dr. Upma Narang and PW-28 Rachit Sethi, it has not been stated as to what words were used by the present applicant.

5. Per contra, Mr. Amit Ahlawat learned APP for the State has vehemently opposed the bail application. It is contended that PW-20 Vikas Sethi is an injured eye witness. He has also referred to the statement of wife of the deceased Dr. Upma Narang (PW-1). It is further contended that all these three witnesses have correctly identified the present applicant who was giving instructions to the assailants at the spot.

6. In the rejoinder, learned counsel for the applicant submits that the statement of Vikas Sethi was also recorded before the Juvenile Justice Board. In the trial, the said witness was confronted with his statement recorded before the Juvenile Justice Board wherein he has not mentioned about the presence of any woman at the spot.

7. The applicant is in custody since 25.03.2016. The role of the applicant ascribed in the charge-sheet is of 'instigation' as per the testimony of the witnesses. It is not the case of the prosecution that the present applicant had assaulted the deceased or injured the witnesses. Though, a *danda* has been recovered at the instance of the present applicant but admittedly, the same was not used in the assault. All the material witnesses have been examined.

8. Keeping in mind the facts and circumstances of the case as well as the role ascribed to the applicant, the applicant is admitted to bail subject to her furnishing a personal bond in the sum of Rs.50,000/- to the satisfaction of the concerned Jail Superintendent. In view of the pandemic situation due to COVID-19, resolution dated 07.04.2020 of the 'High Powered Committee' and the consequent order dated 09.04.2020 passed by Division Bench of this Court in W.P.(CRL.) 779/2020 titled as "Court Of Its Motion v. State", the requirement of furnishing a surety bond is dispensed with. However, the grant of bail to the applicant is subject to the following conditions:-

- (i) The applicant shall not try to get in touch with the complainant or any other prosecution witness directly or indirectly and shall not make any effort to tamper with the evidence.
- (ii) The applicant shall not leave the jurisdiction of NCT of Delhi during the period of her release without the prior permission of the concerned Court.
- (iii) The applicant shall provide her mobile/landline telephone number and the residential address to the IO/SHO P.S. Vikas Puri and in case of any change in the same, shall

bring it to the notice of concerned IO/SHO.

- (iv) The applicant shall keep her mobile/landline number operational during the period of trial.

9. The application stands disposed of in the above terms. CRL.M.B. 6329/2020 is also disposed of as infructuous. The date fixed in the matter is hereby cancelled.

10. A copy of this order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

MANOJ KUMAR OHRI, J

MAY 27, 2020

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