

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

Judgment delivered on: 04.03.2020

+ **BAIL APPLN. 339/2020**

Birju

..... Petitioner

Through: Mr. M. Naushad, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through Mr. Tarang Srivastava, APP for
State.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.(oral)

1. Vide this order I shall dispose of a bail application filed u/s. 439 CrPC moved by the petitioner **Birju** in FIR No. 508/2020 u/s. 302/34 IPC, P.S. Jaitpur.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. It is submitted that petitioner is in judicial custody since 03.10.2017. Chargesheet in this case has already been filed and all the material witnesses have been examined. Nothing incriminating has appeared on record against the petitioner.

3. Ld. ASJ has not appreciated the fact that the deceased Govind entered into the house of Dheeran to commit theft and he was caught red handed and the alleged beatings were given in self defence. It is, therefore, prayed that petitioner be released on bail in the interest of justice.

4. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. The petitioner has been charged u/s. 302/34 IPC. It is submitted that during course of investigation statement of eye-witness Anil was recorded who has categorically stated that petitioner was involved in the murder of the deceased. It is submitted that charge has been framed but the witnesses are still to be examined. In case, the petitioner is released on bail, he can threaten the complainant and other witnesses. He has, therefore prayed for dismissal of the bail application.

5. I have considered the rival submissions. There are allegations against the petitioner that he along with his brother Dheeren caused the death of deceased Govind who had entered in their house with intention to commit theft. Perusal of statement of the eye-witness Anil recorded u/s. 161 CrPC on 03.10.2017 that the deceased Govind has died because of the beating given by the co-accused Dheeren as well

as his brother i.e. the petitioner. In his statement recorded u/s. 164 CrPC it has come on record that the petitioner was also involved in the commission of the offence. The witness has deposed that on receipt of telephone he had reached the residence of Dheeren where deceased was lying and his hands and legs were tied and he was bleeding. He asked Dheeren (co-accused) to call the police but he said that police would be called in the morning. Petitioner was standing outside the house along with other persons. The witness had heard the voice of the deceased from inside the house asking Dheeren to release him and he would return all the articles. Thereafter petitioner was seen going inside angrily and had closed the door. Thereafter deceased was again heard as saying that he would return all the articles and he be, therefore, released. Thereafter petitioner had come out. The above facts appearing on record shows the active role being played by the petitioner. Moreover, charge under Section 302/34 IPC has been framed against the petitioner as well as his brother Dheeren. In view of above allegations which, prima facie, reveal active involvement of petitioner in beating of the deceased due to which he died and further keeping in view that there is apprehension that petitioner can influence

the witnesses, no grounds for grant of bail to the petitioner are made out at this stage. The bail application is, therefore, dismissed.

BRIJESH SETHI, J

MARCH 04, 2020

Amit

