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

+ **BAIL APPLN. 354/2020**

ASHOK KUMAR

..... Petitioner

Through: Ms.Rajshree Bhatnagar, Mr.Vishal
Bhatnagar and Ms.Mala Bhatnagar,
Advocates.

versus

STATE

..... Respondent

Through: Ms.Radhika Kolluru, APP for State
with SI Jagjeewan Ram, P.S.
Badarpur, New Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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19.03.2020

1. The present application has been filed under Section 439 Cr.P.C seeking regular bail in case FIR No.83/2019, registered under Sections 195/304/34 IPC and Section 27 DMC Act at Police Station Badarpur, Delhi.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. She submitted that the present FIR was lodged on 28.03.2019 whereas the incident occurred on 06.02.2019. She submitted that main accused is one Dr. Neeraj Agarwal and the present petitioner was only a supplier of the medical instruments (*laproscopic* instruments) to Dr. Neeraj Agarwal. She has referred to the contract letter dated 02.01.2019 in this regard. She further submits that the petitioner is in custody since 04.04.2019. It is further submitted that though initially FIR was registered under Sections 195/304/34 IPC and Section 27 DMC Act however charge has been framed only under Section 304/34 IPC. She has

also referred to the reply of Shri Deepak Giri (a technician) to the notice dated 18.02.2019 as well as his statements recorded under Section 161 and 164 Cr.P.C. to contend that there is contradiction and that the petitioner has been falsely implicated. Learned counsel for the petitioner has referred to the portion of the FIR where it was mentioned that after he heard the cries, the complainant went inside the operation theatre and saw that besides the main accused and his wife, a compounder and a fourth person was present. The fourth person was giving oxygen to his wife. She contended that there is a contradiction in the statements of the complainant and the technician Deepak Giri in the role played by the petitioner.

3. Learned APP for the State, on the other hand, has vehemently opposed the bail application and submits that Deepak Giri, one of the technicians, in his statements recorded under Sections 161 and 164 Cr.P.C., has given the details of the role played by the petitioner during the operation performed of the wife of the complainant subsequent to which she expired.

4. In the given facts and circumstances of the case, the application is allowed and the petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Court, subject to the following conditions:-

- (i) The petitioner will not directly or indirectly make any inducement, threat or promises to the complainant or any witness during the trial or tamper with the evidence.
- (ii) The petitioner shall provide the I.O./SHO Police Station Badarpur, New Delhi with his mobile phone number and in the

event of change of his residential address, shall inform the same to the I.O./SHO.

(iii) The petitioner shall not leave the jurisdiction of the National Capital Region (NCR) without prior permission of the concerned Court.

(iv) The petitioner will remain regularly present before the Trial Court.

5. With the above directions, the application is disposed of.

6. Order *Dasti*.

MANOJ KUMAR OHRI, J

MARCH 19, 2020

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