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

+ **BAIL APPL. 413/2020**

MANISH KUMAR

..... Petitioner

Through: Mr. Shahid Ahmad Khan, Advocate.
versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

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04.05.2020

CRL.M.A. 5983/2020 (early hearing)

1. On the last date of hearing, notice was issued on the present application and it was directed that the Status Report be placed on record before the next date of hearing.
2. The Status Report has been filed and placed on record.
3. With the consent of the parties, the matter is taken up for hearing.
4. The application is disposed of.

BAIL APPL. 413/2020

1. The present bail application has been filed on behalf of the petitioner seeking bail in FIR No.874/2015 registered under Section 308/34 IPC at Police Station Okhla Industrial Area, Delhi.
2. Learned counsel for the petitioner submits that the petitioner is in custody since 07.11.2015 and all the co-accused have already been released on bail. He further submits that the complainant of the case namely Akash,

has been examined and he has not supported the case of the prosecution. He further submits that all the material witnesses have since been examined and the petitioner is falsely implicated.

3. Learned APP for the State has vehemently opposed the bail application. He submits that even though the complainant has turned hostile however, the testimonies of Vijender (PW-4) and Anil Kumar (PW-10) support the prosecution case who have given specific role of the present petitioner of injuring the complainant with a big stone resulting into his death. He has referred to the post-mortem report to submit that the cause of death has been opined as *“death is due to cranio-cerebral damage as a result of recurrent blunt force impact to head which is sufficient to cause death in ordinary course of nature.”*

4. In the rejoinder, learned counsel for the petitioner has referred to the contents of the FIR where the presence of the aforesaid witnesses namely Vijender and Anil Kumar at the spot on the day of the incident is not mentioned. He has also referred to the cross-examination of the aforesaid witnesses. While PW-10 has admitted that he did not see any of the accused present in the court beating the deceased with dandas, he also stated that he did not see the present petitioner hitting the deceased with a big stone. Similarly, learned counsel has also referred to the portion of the cross-examination of PW-4 where it has been stated that he did not state before the police that he knew any of the accused including the present petitioner and he ever identified the present petitioner.

5. In view of the facts and circumstances of the case and the fact that the petitioner is in custody since 07.11.2015 and the fact that all the material witnesses have been examined, the petitioner is admitted to bail on his

furnishing a personal bond in the sum of Rs.50,000/- to the satisfaction of the concerned Jail Superintendent. In view of the unprecedented pandemic situation on account of COVID-19 pandemic, 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 as of now. However, the grant of bail to the petitioner is subject to the following conditions:-

- (i) The petitioner 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 petitioner shall not leave the jurisdiction of NCT of Delhi during the period of his release on bail without the prior permission of the concerned Court.
- (iii) The petitioner shall provide the concerned I.O./SHO with his telephone number and in the event of change of his residential address, shall inform the same to the concerned I.O./SHO as well as to the concerned Court.

6. The present application stand disposed of in the above terms.

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

MANOJ KUMAR OHRI, J

MAY 04, 2020

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