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

+ **BAIL APPLN. 525/2020**

POORAN @ SUMIT

..... Petitioner

Through

Mr. Kanhaiya Singhal with Ms.
Pratiksha Tripathi, Mr. Chetan
Bhardwaj, Mr. Prasana and Mr. Ajay
Kumar, Adv.

versus

STATE

..... Respondent

Through

Mr. Amit Chadha, APP for State
With Insp. Bishambhar Dayal Meena,
PS Munka

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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10.09.2020

The hearing has been conducted through video conferencing.

1. Present petition has been filed by the petitioner under section 439 Cr.P.C. for grant of regular bail in pursuance to FIR No.30/2013 for the offences punishable under Sections 302/34 IPC and 25 & 27 of Arms Act registered at police station Mundka, Delhi.
2. For the same relief, petitioner had earlier filed application before this Court and the same was dismissed as withdrawn vide order dated 04.12.2018, however, directions were issued to expedite and conclude the trial within one year from the next date of hearing.
3. Ld. Counsel for the petitioner submits that as on 04.12.2018, only 16 prosecution witnesses were examined out of 52 witnesses and despite issuance of directions passed by this Court, till February, 2020 only five more

witnesses were further examined. Therefore, total 21 witnesses have been examined so far.

4. Learned Counsel for petitioner further submits that petitioner is in judicial custody since 17.06.2013. The incident in the present case is dated 08.02.2013 and Lalit, since deceased, died on 16.03.2013 i.e after 40 days. None of the witnesses had named the petitioner, however, he was arrested on 12.06.2013 in FIR No. 164/2013, wherein he allegedly revealed about his involvement in the present case and that he in connivance with co-accused executed the plan of murder.

5. Learned APP has opposed the present petition by submitting that the murder committed in the present case was cleverly planned, without leaving any evidence behind, therefore, for four good months police could not track the case. It was only when the petitioner was arrested in FIR No. 164/2013 on 12.06.2013, that he disclosed about his involvement in the present case and thereafter weapon and vehicle used in the offence were also recovered. Moreover, in order dated 29.03.2017 passed by this court, it is recorded that the petitioner extended threat to witnesses. The allegations against the petitioner are serious. Hence, the present petition deserves to be dismissed.

6. It is not in dispute that all material witnesses are member of the victim's family and have been examined and at this stage there is no likelihood of threat being extended to any of the witnesses.

7. Petitioner is in J.C. since 17.06.2013 and so far not even half of the witnesses could be examined. Thus, trial shall take substantial time and moreover in the four cases as mentioned in the status report dated 03.03.2020, the petitioner has been discharged in FIR No. 18/2013 and acquitted in FIR Nos. 134/2013 and 58/2013, however, only one case is pending trial against

the petitioner i.e. FIR No. 164/2013.

8. It is also not in dispute that as on 04.12.2018, 16 witnesses were examined and even after one and half years, only 5 witnesses could further be examined due to the reasons mentioned in the report filed by the District & Sessions Judge pursuant to the directions passed by this Court.

9. As per the ballistic report, it is established that the deceased was shot by the same weapon recovered from the co-accused in the present case.

10. However, without commenting on the case of the prosecution and keeping in view the period already spent in judicial custody and that trial shall take substantial time, I am of the view that the petitioner deserves bail.

11. Accordingly, he shall be released on bail forthwith on his furnishing a personal bond of Rs.25,000/- and two sureties of the like amount to the satisfaction of Trial Court

12. Petitioner shall not directly or indirectly influence or contact any witness or tamper with the evidence.

13. The Trial Court shall not get influenced by the observation made by this Court while passing the order.

14. The petition is, accordingly, allowed and disposed of.

15. Copy of this order be transmitted to the Jail Superintendent concerned and Trial Court for information and necessary compliance.

16. Before parting with this petition, as noted above, vide order dated 04.12.2018, this Court directed the Trial Court to expedite and conclude the trial within one year. Admittedly, the Trial Court could not conclude the trial within the stipulated time as directed by this Court.

17. It is also not in dispute that the Trial Court neither complied with the directions nor sought for extension of time. However, when the learned

counsel for petitioner apprised this Court about order dated 04.12.2018, this Court sought a report from the Trial Court as to why directions pursuant to aforesaid order has not been complied with. Accordingly, the concerned court file a report mentioning reasons therein.

18. In view of above, I am of the considered opinion that once a direction is passed by this Court to the subordinate Court, the said court is duty bound to comply with the directions within the stipulated time or seek extension for the same. However, I have come across certain cases, wherein this Court had passed directions, but subordinate Courts have neither complied with them nor sought extension for the same.

19. Accordingly, I hereby direct all the subordinate courts concerned that when directions are passed by this Court, the courts shall duly comply with the same, in failure whereof they shall seek extension from this Court well in advance i.e. before expiry of the period as directed by this Court. In the event the subordinate court fails to act in accordance with the directions passed by this Court, action shall be taken against the judicial officer concerned as per law.

20. Registry of this Court is directed to communicate this order to all the District & Sessions Judges, Delhi who shall in turn apprise to all the learned Judges concerned. .

21. The order be uploaded on the website forthwith.

SURESH KUMAR KAIT, J

SEPTEMBER 10, 2020

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