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

+ **BAIL APPL. No. 771/2020**

GAURAV @ TAMBAKU Petitioner

Through: **Ms. Ruchira Singh, Adv.**

versus

STATE Respondent

Through: **Mr. Hiren Sharma, APP for the
State**

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **17.04.2020**

Crl. M.A. no. 5813/2020 (interim bail) in BAIL APPL. No. 771/2020

1. This matter has been taken up for hearing by video conferencing, consequent to listing thereof having been allowed by the Registrar.

2. The petitioner is incarcerated, in connection with his being allegedly involved in an offence punishable under Section 302 IPC, and is facing trial.

3. The status report dated 15th April, 2020, filed by the SHO, P.S. Bharat Nagar, discloses that the evidence of the eye-witness, to the act of murder, namely, Ms. Kirti @ Puja W/o. Mr. Sagar, is yet to be recorded.

4. In the bail application, the case set up is that consequent to the

unfortunate demise of the father of the petitioner, on 9th April, 2020, the condition of the petitioner's family is pitiable, as the family has no source of income for daily expenses. It is further averred, in para 6 of the application that the mother of the petitioner is illiterate and is suffering from old age ailments and is not in a position to undertake the responsibilities of her three minor children, without any financial or emotional support.

5. I may note here, that, the petitioner's mother is only 42 years of age, as per the affidavit filed with the bail application and cannot, therefore, be treated as "suffering from old age ailments", by any stretch of imagination. Further, the ages of the children of the petitioner, as disclosed in the status report filed by the SHO, P.S. Bharat Nagar, are 18 years, 16 years and 14 years respectively, of which the petitioner's daughters are aged 18 years and 16 years and his son is 14 years of age. As such, the averment that petitioner's children are minor, is also not, strictly speaking, correct.

6. Ms. Ruchira Singh, learned counsel for the petitioner, submits that, nevertheless, being a housewife, the mother of the petitioner is not in a position to look after the family.

7. The circumstances in the present case, especially seen in the light of the fact that the evidence of principal eye-witness is yet to be recorded during the trial, do not, in my opinion, make out a case for releasing the petitioner on bail for any specific period, at this stage. Ms. Ruchira Singh, learned counsel for the petitioner requests that the petitioner, at least, be permitted to be released, so that he would be

able to attend the “*tehravin*” of his father.

8. Mr. Hiren Sharma, learned APP for the State fairly submits that he has no objection for release of the petitioner on parole for one day only, so that he can attend the said ceremony, which is to take place on Sunday, i.e., 19th April, 2020, but submits that in view of the above noted facts, no case for releasing the petitioner on bail is made out, at this stage.

9. On a holistic appreciation of the facts and keeping in mind the fact that the evidence of the principal eye-witness is yet to be recorded during trial, the possibility of the petitioner tampering with the said evidence, if released on bail, cannot be ruled out. As such, I am not inclined to enlarge the petitioner on bail at this juncture. This shall not, however, preclude the petitioner from re-applying for regular bail on any later or more appropriate stage, if so advised.

10. However, keeping in mind the fair submission made by Mr. Hiren Sharma, learned APP for the State as well as the request made by Ms. Ruchira Singh, learned counsel for the petitioner, I deem it appropriate to release the petitioner on custody parole for one day, so that he can attend the *tehravin* ceremony of his father, which is scheduled on 19th April, 2020. Accordingly, the petitioner shall be released from jail in custody for one day i.e. on 19th April, 2020 (Sunday) from 10:00 am to 5:00 pm. The Superintendent, Tihar Jail is directed to depute a responsible officer, to accompany the petitioner and shall remain with him during the said period i.e. on 19th April, 2020 (Sunday) from 10:00 am to 5:00 pm.

11. The petitioner shall return to jail at 5:00 pm on the said day itself i.e. 19th April, 2020.

12. Subject to the above observations, this application is disposed of.

13. Let this order be communicated directly to the concerned authorities of Tihar Jail.

C.HARI SHANKAR, J.

APRIL 17, 2020
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