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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 878/2020

MANTOSH KUMAR THAKUR

.....Petitioner

Through: Mr. Navin Thakur, Advocate.

Versus

STATE

..... Respondent

Through: Mr. Kamal K. Ghai, APP for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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22.05.2020

1. The hearing was conducted through video conferencing.
2. The applicant seeks regular bail through the present application, he has been behind bars since 25.07.2019 in FIR No. 425/2019 registered at Police Station, Narela Industrial Area (Outer North) under sections 302/34 IPC. The applicant and his wife are alleged to have assaulted the deceased, on a night when there was no electricity in their area; the complainant/childhood friend of the deceased witnessed the incident at about 2 a.m. He asked the accused persons as to why they were beating the deceased, he was told that the deceased had attempted to commit theft/robbery in their house. The learned counsel for the applicant submits that despite the fact that there were other people in the neighbourhood, who were watching the deceased getting beaten up, nobody came forward to stop the alleged assault nor did any one speak up against it. The manner of assault is specified in the FIR, that the applicant was beating the deceased with a stick while the wife was

punching and was kicking him. An unknown person is stated to have called the PCR. It came to the spot and took the injured to the hospital where he succumbed to his injuries a few hours later. The FIR was registered. The learned counsel for the applicant submits, that the complainant who claims to be a childhood friend, did not deem it appropriate or natural to communicate the aforesaid incident to the family of the assaulted/deceased friend, either personally or through a telephonic call. No such communication has been recorded nor has he otherwise stated anywhere that he had himself contacted the family of the assaulted/deceased. The FIR was registered almost 20 hours after the alleged incident, but there is even not a whisper of the complainant/eye witness intimating the family of the deceased. It is contended that this lack of communication of a friend being beaten up by someone and then being taken by the police to a hospital in the late hour of the night, is rather odd for somebody who claims to be a childhood friend.

3. In view of the current pandemic lockdown, administrative directions have been issued by the High Powered Committee on 18.05.2020 that interim bail for 45 days even cases of Under Trial Prisoners (UTPs) facing trial for a case under section 302 IPC may be considered, where the prisoner has been in jail for more than two years. It has directed *inter alia* as under:-

" The Members of the Committee discussed the report submitted by DG (Prisons) vide his letter dated 16.05.2020 and resolved that prisoners falling in following criteria may now be considered for grant of interim bail for 45

days in view of the circumstances in which we are in, preferably on 'Personal Bond':

(i) Under Trial Prisoners (UTPs) facing trial for a case under section 302 IPC and are in jail for more than two years with no involvement in any other case;

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4. The applicant has been in custody for 10 months. However, looking at the facts of the case, the Court grants bail to the applicant on his furnishing a personal bond in the sum of Rs. 25,000/- to the satisfaction of the Jail Superintendent concerned, subject to the following conditions:
 - (i) The applicant shall keep the SHO/IO concerned informed of his whereabouts every Friday through SMS or telephone call or by 'dropping-a-pin' on location app (eg. Google Maps), The IO/SHO's telephone number shall be furnished to him directly as well as to his counsel.
 - (ii) The applicant shall appear before the Court and participate in the investigation whenever so required.
 - (iii) The applicant shall not do anything which may cause prejudice to the case of the prosecution against him.
5. While on bail, the applicant seeks permission to visit his mother- Smt. Laxmi Devi, in Bihar because she is stated to be 79 years old and not keeping a good health. However, the learned APP submits that the Bihar address i.e V&PO - Chailahan Taal, P.O. - Bajaria Thana, District: East Champaran, Bihar, needs to be verified. Let the police do so. If the address of the applicants mother in Bihar is verified, he shall be allowed to visit her.
6. Nothing stated in this order shall be deemed to be an adjudication

on the merits of the case. The Registry is directed to send a copy of this order to the Jail Superintendent, concerned for compliance. Additionally, a copy of the same shall also be delivered upon the Jail Superintendent through the police.

7. The application is disposed-off in terms of the above.
8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsel through email.

NAJMI WAZIRI, J

MAY 22, 2020_{/KB}