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

+ **BAIL APPLN.1176/2020**

NITIN SABHARWAL

.....Petitioner

Represented by: Mr.Vishal Gosain and Ms.Megha
Bahl, Advocates.

versus

STATE

..... Respondent

Represented by: Mr.Hirein Sharma, APP for State.
Mr.Mohit Mathur, Sr.Advocate with
Mr.Chetan Anand, Advocate for the
complainant.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

16.06.2020

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1. The hearing has been conducted through Video Conferencing.
2. By this application the petitioner seeks interim bail for a period of 45 days in view of the COVID-19 situation and the decision of the High Powered Committee of this Court dated 18th May, 2020 whereby under trial prisoners facing trials in case under Section 302 IPC and are in Jail for more than two years with no involvement in any other case have also been directed to be released.
3. Opposing the bail application, learned APP for the State and learned Senior Counsel for the complainant vehemently contend that the decision of the High Powered Committee carves out a distinction whereby undertrials included in the cases investigated by CBI, ED, NIA, SFIO, Crime Branch, Special Cell have been directed not to be released on bail. The conditions laid down by the High Powered Committee are general in nature to take care

of decongestion in jail and though initially cases under Section 302 IPC were excluded however, by the resolution in the meeting dated 18th May, 2020 the benefit as extended to the prisoners who were under trial for offences punishable upto seven years has been extended even to under trial prisoners involved in offence under Section 302 IPC, with no other involvement and have been in jail for more than two years.

4. Application of the petitioner seeking regular bail was dismissed by this Court by a detailed order dated 13th December, 2019 whereby one of the major considerations was that though 22 witnesses had already been examined however, some witnesses who could be influenced by the deceased were yet to be examined. In the list of witnesses yet to be examined the names of Ms.Renu Sehgal, a neighbour, Mr.Ram Bachan, driver of the petitioner and Ms.Shivani Ahluwalia, sister of the deceased were named. Besides these three witnesses the remaining witnesses were the two learned Metropolitan Magistrates, Constables from the PCR, the Doctors who conducted the MLC and the post-mortem, scientific experts from FSL, Rohini and CFSL, CBI, Police Officers and the Nodal Officers of Airtel, Vodafone and Idea Companies.

5. On a query put by this Court it is stated by both learned counsel for the petitioner and learned APP for the state that Ms.Renu Sehgal and Mr.Ram Bachan, the two public witnesses have already been examined. Thus the only public witness now remaining to be examined is Ms.Shivani Ahluwalia, who was not present in India at the time of incident.

6. Considering the unprecedented situation caused due to COVID-19 in the country and that the investigation in the present case was initially with the local police and considering the medical reports and various other

reasons had to be subsequently transferred to the Crime Branch, this Court finds that despite the embargo created by the Resolution of the High Powered Committee dated 18th May, 2020, it is a fit case where the petitioner can be released on interim bail for a period of 45 days.

7. Consequently, the petitioner is directed to be released on interim bail for a period of 45 days on his furnishing a personal bond in the sum of ₹5 lakhs with two surety bonds of the like amount subject to the satisfaction of the learned Trial Court/Duty Magistrate. It is further clarified that the petitioner and both the sureties will furnish their mobile phone numbers so that as and when required they can be contacted by the Investigating Agency. The petitioner will not leave the territory of NCT of Delhi during this period of 45 days.

8. It is however, clarified that any observation made hereinabove will have no bearing on the merits of the case.

9. Application is disposed of.

10. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

JUNE 16, 2020

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