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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1448/2020**
SHEELA @ SHALUApplicant
Through: Mr. Jitendra Sharma, Adv.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State with SI Nipendra Kumar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **14.07.2020**

The applicant vide the present application has sought the grant of interim bail in relation to the FIR 509/2017, PS New Ashok Nagar registered under Section 302/201/120B/34 of the Indian Penal Code, 1860 submitting to the effect that the applicant has been incarcerated since 11.09.2017 and he falls within the ambit of the discretionary grant of interim bail as issued in terms of the minutes of the meeting dated 18.05.2020 of the Hon'ble High Powered Committee of this Court.

The nominal roll has been received from the Superintendent Jail, Delhi which indicates that the applicant has been incarcerated for a period of 2 years 9 months and 27 days and her jail conduct is good. The status report that has been submitted by the State categorically indicates to the effect that the applicant's previous bail application i.e. bail application seeking grant of regular bail bearing no.3017/2019 was specifically declined by this Court vide order dated 15.01.2020 with it having been observed vide the said order

to the effect:

“On behalf of the petitioner has been submitted the copy of the order dated 10.12.2019 of this Court in Bail Appln. 2766/2019 qua the applicant thereof named Krishna @ Kanhiya, co-accused in FIR No. 509/2017, PS New Ashok Nagar, under Sections 302/201/120B/34 of the Indian Penal Code, 1860 in which vide order dated 10.12.2019 in as much as apart from the disclosure statement of the co-accused there was no other evidence that was stated to have been recovered pursuant to the disclosure statements made by the co-accused against the accused Krishna @ Kanhiya, the said accused had been allowed to be released on bail on filing a bail bond in terms of the directions and conditions imposed vide order dated 10.12.2019 in Bail Appln. No. 2766/2019. It has thus been submitted on behalf of the petitioner that the facts alleged against the petitioner are in pari materia with no incriminating evidence having been collected by the Investigating Agency against the petitioner apart from the disclosure statements of the co-accused against the petitioner.

The said submission is refuted on behalf of the State. The status report dated 19.12.2019 has been submitted on behalf of the State and the learned Additional Public Prosecutor has referred to the averments that have been made in the police report under Section 173 of the Cr.P.C., 1973. Inter alia through the said averments made in the police report it has been submitted to the effect that the information qua the missing of the deceased was given by the brother of the deceased and on enquiries being conducted, the call details of the mobile number of the deceased i.e., the husband of the present petitioner were examined but nothing suspicious was found. Local enquiries were conducted and it was revealed that the wife of the deceased, i.e., the present petitioner used to talk on the mobile phone at late night hours and thus the call details of the mobile number 9871069160 were obtained which revealed that on 29.8.2017 she had two conversations early in the morning with the mobile number 9808623828 and that she was in regular touch with this number. The call details of the mobile No. 9808623828 and its CAF were obtained which revealed that the bearer of the said SIM was one Sh.Rameshwar Singh resident of Agra U.P. It is further averred

through the police report under Section 173 Cr.P.C., 1973 that on 9.9.2017 a raid was conducted at the address of Sh.Rameshwar Singh who revealed that the said mobile number was utilized by his son named Pramod (the co-accused stated to be in custody) who was in Delhi and the address of Pramod was obtained from Rameshwar with the raid having been conducted on 10.9.2017 at the address given by Sh.Rameshwar Singh at Rajender Ka Makan, Sapera Basti, Garaulli Village, Delhi where there were two persons apprehended i.e., Pramod S/o Rameshwar Singh and Vivek Kumar @Arab S/o Ramesh Chand (both of whom are stated to be custody as submitted on behalf of the State), the said two persons Pramod and Vivek allegedly revealed that both of them along with their friend Krishna @ Kanhiya (since granted bail) in Bail Appln. 2766/2019 vide order dated 10.12.2019, had been hired by Sheela @ Shalu i.e., the present petitioner, the wife of the deceased, to kill her husband for Rs.1,00,000/- and she had provided them a room, the room in which they had been apprehended, for their stay to execute the plan and that she had also given the photograph of the deceased and the route from which the deceased used to go to his routine work. The charge sheet further states to the effect that on 29.8.2017 the co-accused Parmod and Vivek apprehended the deceased Dharmender on the way and killed him and Parmod strangulated his neck with the help of gamcha and Vivek stabbed the deceased multiple times on his chest and abdomen with a knife. Pursuant to the disclosure statements of the said two accused Pramod and Vivek the clothes worn by Pramod at the time of the commission of the offence were recovered and the manner of the execution of the plan and the place where the plan having been executed were also pointed out by the said persons. The petitioner pursuant to her arrest and apprehension is alleged to have disclosed her extra marital affairs with a person whom she wanted to marry, named, Raj who was stated to be not aware of the marital status of the petitioner so that the existence of her marital status was not divulged to Raj, the petitioner is alleged to have hired Krishna @ Kanhiya through the co-accused Pramod and Vivek to kill her spouse. It has been submitted on behalf of the petitioner that the mobile number allegedly recovered in the

instant case bearing No. 9871069160 from which the petitioner is alleged to have made calls on 29.8.2017(which is the date on which the missing report qua the missing of the spouse of the petitioner had been made by the brother of the deceased), did not belong to the petitioner and rather belonged to her spouse and that thus the conversation, if any, made vide the mobile number 9871069160 with Pramod the alleged killer would not in any manner implicate and incriminate the present petitioner.

Presently, the matter is at the stage of trial, the aspect of the recovery of the mobile phone having been obtained from the petitioner bearing No. 9871069160 is not refuted, though the said mobile phone is stated to be in the name of the spouse of the petitioner, the spouse of the petitioner is stated to have been murdered and the co-accused named Pramod and Vivek have been apprehended pursuant to the call details qua the said mobile number 9871069160 having been examined pursuant to which there has been recovery of alleged incriminating circumstantial evidence against those persons alleged to have involved in the commission of the offence. Presently, in the circumstances, there is no ground for grant of bail. The application is declined.

The observations in the order dated 10.12.2019 in Bail Appln. No. 2766/2019 are on the facts of the allegations against Krishna @ Kanhiya which were only on the basis of alleged disclosure statements simplicitor of the co-accused and the facts thereof are not in pari materia with the allegations levelled against the present petitioner.

The Bail Appln. 3017/2019 is thus declined.”

Taking into account the details in the order dated 15.01.2020 declining the grant of regular bail to the applicant in Bail Appln. 3017/2019, it is not considered appropriate to grant the interim bail to the applicant in view of the minutes dated 18.05.2020 of the Hon’ble High Powered Committee of this Court as it is discretionary to the Court concerned to grant the interim bail or not to grant the same.

The application is declined.

ANU MALHOTRA, J

JULY 14, 2020