

\$~4

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

+ **BAIL APPLN. 1881/2020**

RAMESH

..... Petitioner

Represented by: Mr.M.P.Sinha, Advocate.

versus

STATE

..... Respondent

Represented by: Ms.Meenakshi Chauhan, APP for
State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

11.08.2020

%

The hearing has been conducted through Video Conferencing.

1. By this petition, the petitioner seeks regular bail in case FIR No. 683/2015 under Sections 302/212/34 IPC registered at P.S. Kanjhawala.
2. The above-noted FIR was registered on the statement of one Manjeet Gahlot who stated that his mother had purchased a 50 yards plot at Durga Enclave. On the night of 7th October, 2015 at about 6.30 pm, he along with Rohit @ Rakesh went by scooty to level the soil at the plot situated at Durga Enclave, Delhi. After completing the work, Manjeet and Rohit consumed liquor while sitting at the plot. At about 7.15 pm, petitioner Ramesh and Mahipal came there in the car of the petitioner with registration No. HR-32-1481 and Ramesh started abusing Rohit verbally and arguing with him. Complainant Manjeet tried to intervene, stop the fight and took Rohit on his scooty towards Durga Enclave Main Road. Ramesh followed their scooty

in his car and at Durga Enclave, hit their scooty resulting in their falling down. Ramesh and Mahipal started beating them and at that time, Joginder @ Kale from Durga Enclave came there and tried to stop the fight. Then, Ramesh and Mahipal forced the complainant Manjeet, Rohit and Kale to sit in the car and took them behind the temple of Jat Khor village. Mahipal and Ramesh again started beating all the three of them when Kale ran away. As per Manjeet, thereafter, Ramesh and Mahipal took both Manjeet and Rohit in the car and proceeded towards fields where boring work was being done. They picked up a Kassi from there and took the car towards the kachha road. There, both Manjeet and Rohit were pushed out of car and Mahipal attacked Rohit with Kassi on his back and Rohit became unconscious. Then, Ramesh attacked on head of Rohit with Kassi many times repeatedly. Thereafter, they left Rohit at the spot and took Manjeet inside the car and proceeded further. After some time, Rohit regained consciousness and sat down when Mahipal and Ramesh again got down from the car and attacked him number of times on the head and body. To check whether Rohit was alive or not, Ramesh further kicked at the face of Rohit and when there was no movement in the body of Rohit, they took complainant to old age home and got his torn clothes changed and made him in the vehicle and took him to Mangolpuri from where, complainant had to take money for them. At this stage, Manjeet went to the house of Dalbeer Singh and told his son Sunny about the incident and made a call on 100 number.

3. During the course of investigation, it was found out that the complainant Manjeet was in fact involved in the incident and thus, charge sheet was filed even qua Manjeet. During the course of investigation, the blood stained weapon of offence (Kassi) and blood stained clothes of

petitioner Ramesh and co-accused Mahipal were recovered at their instance.

4. Petitioner has been in custody since 27th October, 2015. The prosecution in its charge sheet has cited 57 witnesses, out of whom, 34 witnesses have been examined. Prosecution has also collected the FSL report which shows that the blood stains on the shirt of the petitioner and the co-accused dress was matching with the blood of the deceased.

5. Thus, the case of the prosecution rests on the statement of the eye witness Joginder @ Kale, recovery of the blood stained clothes of the petitioner and co-accused, weapon of offence at their instance, FSL report, last seen evidence deposed to by Rajesh Kumar and Mahaberi examined as PW8 and PW11, the brother and mother of the deceased as also the CCTV footage showing the petitioner and the co-accused changing their clothes as also the call recording of the confession made by the petitioner over phone to PW Krishan Kumar and confession of Mahipal over phone to PW Baljeet. The FSL report with regard the voice sample analysis has also been received.

6. During the course of trial, out of 34 witnesses examined, statement of Baljeet has been recorded as PW33 who has not supported the prosecution case. Eye witness Joginder @ Kale has also not supported the prosecution case. As regards the statements of Rajesh Kumar and Mahaberi examined as PW8 and PW11 are concerned, they are the witnesses of the last seen having seen Mahipal along with the deceased Rohit and thus, their evidence has no relevance to that of the petitioner. Further ASI Beg Raj (PW16) in his cross examination admitted that the weapon of offence and the clothes which were found to be blood stained and the blood tallied to that of the deceased were recovered from an open piece of land.

7. Without further going into the merits of the evidence as it would be inappropriate to appreciate the same in piecemeal, suffice would it be to note that the material witnesses qua the petitioner have been examined and the petitioner is in custody for nearly five years now. Thus, this Court deems it fit to grant bail pending trial to the petitioner. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹ 50,000/- with two surety bonds of the like amount subject to the satisfaction of the learned Trial Court/CMM concerned. This is further subject to the condition that the petitioner will not go near the residence or to the residence of the victim or try to influence the family of the victim.

8. Petition is disposed of.

9. Copy of the order be uploaded on the website of this Court.

MUKTA GUPTA, J.

AUGUST 11, 2020

akb