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

% Judgment delivered on: 20th August, 2020

+ **BAIL APPLN. 1946/2020**

RAJ KUMAR @ RAJU

..... Petitioner

versus

GOVT. OF NCT

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Ms. Sarita Gupta, Advocate

For the Respondent: Ms. Kusum Dhalla, Addl. PP for the State with Inspector Prahlad, Police Station Shahdara.

Mr. K.S. Rana, Advocate with complainant in person through video conferencing.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. The hearing was conducted through video conferencing.
2. Petitioner seeks regular bail in FIR No. 90/2019 initially registered under Section 323/341/34 of the IPC registered at Police Station Shahdara. Subsequently after the death of the victim Section 302 IPC has been added.
3. FIR has been registered on the statement of the victim (deceased) who had stated that on 21.04.2019 at about 10.00 p.m. he had left his shop to return home. Near his shop when he reached Hanuman Mandir, one person sprayed something on his face because of which he started feeling burning sensation on his face. Thereafter his brother and his friends

stopped his way and started hitting him with rods and wooden sticks on account of which he sustained several injuries on his body. The victim was thereafter taken to hospital and on 24.04.2019 he passed away. In his statement the Victim names several persons and states that they along with others assaulted him.

4. As per the prosecution there are several witnesses who had witnessed the incident and seen the accused. One such person is the son of the deceased who has stated that he along with his friend was at a distance of about 100 meters when they heard the voice of his father asking for help. He and his friend reached the spot and saw his uncle and several other individuals who had iron rods and sticks in their hands and were beating his father. He has named all the accused except one who he has stated he does not know but could identify when he comes in front. He has specifically named the petitioner as one of the assailants who had an iron rod in his hand and was beating his father.

5. Post-mortem report shows that as many as 44 injuries were sustained by the victim on his body. The death summary reports that the victim had suffered polytrauma with multiple lower limb fractures and the cause of death is reported as the physical assault.

6. The statement given by the son of the deceased has also been corroborated by his friend as well as other eye-witnesses.

7. Learned counsel for the petitioner submits that petitioner suffers from HIV AIDS and as such is vulnerable and be granted regular bail.

8. Status report has been filed by the learned Addl. PP for the State.

9. The medical report of the petitioner has also been received from the Jail Superintendent which states that petitioner has been suffering from HIV AIDS for the last 8 years and is getting ART medicines from the ART Centre at GTB Hospital and his condition is stable with vitals within the normal limits and he is getting all prescribed medicines from the Jail OPD and is also getting special medical diet for his HIV status.

10. Keeping in view of the nature of offence and the role ascribed to the petitioner and the fact that petitioner has been specifically named as one of the assailants by the son of the deceased, who is an eye-witness and also the nature of injuries sustained by the deceased, and the fact that medical condition of the petitioner is reported to be stable and he is receiving appropriate treatment, I am of the view that the petitioner is not entitled to grant of regular bail at this stage.

11. The petition is accordingly dismissed.

12. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J

AUGUST 20, 2020

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