

\$~7

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

%

Judgment delivered on: 29.09.2020

+ BAIL APPLN. 2763/2020

BILAL

..... Petitioner

versus

STATE OF NCT DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Archana Sharma with Mr. Divakar Upadhyay, Advocates.

For the Respondent: Ms. Kusum Dhalla, APP for the State.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

BAIL APPLN. 2763/2020

1. The hearing was conducted through video conferencing.
2. Petitioner seeks interim bail for a period of 2 months in FIR No.445/2016 under Section 302 IPC, Police Station Jamia Nagar.
3. Learned counsel for the petitioner submits that petitioner is entitled to the benefit of the directions issued by the High Powered Committee, particularly, the minutes of the meeting dated 18.05.2020, wherein, the High Powered Committee has held that prisoners falling

in the following category may be considered for grant of interim bail of 45 days in view of the prevailing circumstances. One of the criteria mentioned is “under trial prisoners (UTPs) facing trial for a case under Section 302 IPC and are in jail for more than 2 years with no involvement in any other case”.

4. Learned counsel for the petitioner submits that the petitioner is an under trial and has already been in custody for nearly 5 years and is not alleged to be involved in any other case.

5. This is a third successive bail petition filed by the petitioner. The second petition, i.e., Bail APPLN.1362/2020 was filed by the petitioner also taking up the identical ground benefit of the High Powered Committee. Said bail application was dismissed as withdrawn on 29.07.2020 when this Court was not inclined to grant interim bail to the petitioner. Between the dismissal of the earlier petition and today there is admittedly no change in the circumstances.

6. Learned counsel for the petitioner submits that petitioner is not seeking bail on merits but is only seeking bail on the ground of the recommendations of the High Powered Committee.

7. The Minutes of the meeting of the High Powered Committee dated 18.05.2020 clearly shows that they are recommendatory in nature and do not have the force of law and are not mandatory. The High Powered Committee has specifically used the expression

“prisoners falling in the following criteria may now be considered for grant of interim bail:”.

8. The High Powered Committee has not issued any directions to the authorities to release all such prisoners but has only recommended to the Courts that such prisoners who fall in that category may be considered for grant of interim bail for a period of 45 days in view of the pandemic. There is no mandate issued to the authorities or Court to release all such prisoners.

9. In my view, the minutes of the meeting of the High Powered Committee are merely recommendatory. Facts and circumstances of each case would have to be evaluated and considered by the Court prior to applying the recommendations.

10. Coming to the facts of the present case, this is the third successive petition for bail filed by the petitioner. Ms. Kusum Dhalla, learned APP appearing for the State, submits that since notice has not yet been issued in this petition, status report could not be filed. However, she relies on the factual matrix placed on record by the status report filed in the case of co-accused *Ram Phool versus State* being Bail APPLN.1310/2020.

11. As per the learned APP for the State, the case pertains to a cold blooded murder of a quasi-judicial officer, who is alleged to have refused to accept bribe to favour one of the co-accused.

12. It is contended that the deceased was the Estate Officer appointed under the Public Premises Eviction Act, 1971 on behalf of New Delhi Municipal Council and he had refused to rule a decision on the eviction of the property of the co-accused in his favour. The co-accused is alleged to have offered a bribe of 3 to 4 crores to the deceased, which was declined. Since NDMC won the case, the co-accused held a grudge against the deceased. He is alleged to have spoken to his personal security officer and they conspired to hire a hit man to eliminate the deceased. Accordingly, after going through a chain of 2 – 3 persons, they came in contact with the Petitioner. The deceased was shot dead by two motorcycle borne men and petitioner is alleged to be the one who was driving the motorcycle when the deceased was shot by the co-accused.

13. Learned APP for the State submits that this being a case of a cold-blooded murder and trial is at the advanced stage with several prosecution witnesses supporting the case of the prosecution, no indulgence can be shown to the petitioner and this would not be a fit case to apply the recommendations of the High Powered Committee and enlarge petitioner on interim bail for a period of 45 days.

14. I am in complete agreement with learned APP for the State. Keeping in view the nature of allegations and the stage at which the prosecution's case has reached and also the fact that the Minutes of the meeting of the High Powered Committee are recommendatory and

not mandatory, it is not a fit case to enlarge the petitioner on interim bail for a period of 45 days.

15. I find no merit in the petition. The Petition is, accordingly, dismissed.

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

SEPTEMBER 29, 2020
st

SANJEEV SACHDEVA, J

