

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 105/2021

Date of decision: 15th January, 2021

IN THE MATTER OF:

EKANT BANSAL Petitioner
Through Ms. Manika Pandey Tripathi,
Advocate
versus

STATE GNCT OF DELHI Respondent
Through Ms. Kusum Dhalla, APP

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973 (Hereinafter referred to as 'the Cr.P.C.') seeking regular bail in FIR No.580/2014 dated 13.11.2014, registered in Police Station Paharganj for offences under Section 302 IPC.
2. Heard Ms. Manika Pandey Tripathy, learned counsel appearing for the petitioner and Ms. Kusum Dhalla, learned APP appearing for the State on 12.01.2021 and the order was reserved.
3. Ms. Manika Pandey Tripathy, learned counsel appearing for the petitioner contends that the petitioner was arrested by the police on

15.01.2015, and is in custody for about six years. She states that the co-accused has been granted bail by the trial court. It is further stated that there are material contradictions in the statements of the prosecution witnesses and in all likelihood the trial would result in the acquittal of the petitioner. On the other hand, Ms. Kusum Dhalla, learned APP appearing for the State contends that the application for bail which was filed by the petitioner before the learned Additional Sessions Judge, Tis Hazari Courts, New Delhi was rejected on 20.10.2020. She further states that the petitioner is accused of a very heinous crime namely that of murder, and therefore is not entitled for grant of bail.

4. Admittedly, the petitioner had been granted an interim bail for a period of one month by an order dated 08.09.2017. The applicant did not surrender on the expiry of the interim bail and he was declared a proclaimed offender vide an order dated 12.04.2018. The petitioner was later arrested in another case.

5. A perusal of the FIR shows that the allegation against the petitioner is that he alongwith two other persons assaulted the deceased which resulted in his death. This court is not inclined to enter into the question as to whether there are contradictions in the statements of the prosecution witnesses or not

at that stage.

6. The Supreme Court in NIA v. Zahoor Ahmad Shah Watali, reported as (2019) 5 SCC 1, has restated the settled legal position about the factors to be kept in mind for deciding an application of bail and has observed as under :

21. Before we proceed to analyse the rival submissions, it is apposite to restate the settled legal position about matters to be considered for deciding an application for bail, to wit:

- i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- ii. nature and gravity of the charge;*
- iii. severity of the punishment in the event of conviction;*
- iv. danger of the accused absconding or fleeing, if released on bail;*
- v. character, behaviour, means, position and standing of the accused;*
- vi. likelihood of the offence being repeated;*
- vii. reasonable apprehension of the witnesses being tampered with; and*
- viii. danger, of course, of justice being thwarted by grant of bail. (State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21, para 18 : 2005 SCC (Cri) 1960 (2)] .)*

7. The petitioner is accused of an offence under Section 302 IPC. If convicted for the offence under Section 302 IPC the petitioner will be

sentenced to undergo life imprisonment and can even be awarded death penalty. The petitioner has already abused the bail granted to him and therefore there is a danger of the accused to abscond if released on bail. The petitioner was arrested in another offence while on bail which indicates that there is a danger of his committing other offences if he is released on bail.

8. Keeping all these factors in mind this court is not inclined to grant bail to the petitioner. Accordingly, the petitioner's bail application is dismissed.

SUBRAMONIUM PRASAD, J

JANUARY 15, 2021

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