

(VIA VIDEO-CONFERENCING)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on : 16.07.2021

Pronounced on : 09.08.2021

+ BAIL APPLN. 348/2021

LALIT

.....Petitioner

Through: Mr. Vikas Lakra, Advocate.

Versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Dr. M.P.Singh, APP with Insp.
Pawan Kumar, P.S. Narela.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C. seeking bail in case FIR No. 223/2019 under Sections 364/365/368/302/201/34 IPC registered at Police Station Narela, Delhi.

2. Briefly stated, the facts of the case are that on 06.06.2019, a missing report of Rajpal aged 40 years was lodged by his brother-in-law namely Ranbir vide DD No. 54-A dated 6.6.2019 at police station Narela, Delhi. Subsequently, Rajpal's wife Hemlata appeared at P.S.Narela on 8.6.2019

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and gave her statement wherein she stated that her husband Rajpal was last seen with Suraj aged 25 years in the intervening night of 4-5.06.2019 and went missing along with his motorcycle. It is alleged that enquiry was conducted and during the enquiry, suspect Suraj was also found absconding. Accordingly, a case bearing FIR No.223/2019 under Section 365/368 IPC was registered at Police Station Narela on the basis of the statement given by Hemlata and investigation was taken up.

3. It is alleged that during the course of investigation, suspect Suraj was nabbed on 23.6.2019 from Shani Bazar Road, Narela at the instance of the informer. Accused Suraj disclosed that he along with his two associates namely Sahil and Lalit (the present applicant) had abducted Rajpal on 05.06.2019 from Singhu Border and killed him by hitting him badly with wooden sticks in the field near Tikri Village. Thereafter, they lifted the dead body and put into a Santro Car and after they dumped the dead body in Budhpur drain. It is alleged that accused Suraj also disclosed that they had killed Rajpal as he got him arrested in District Hapur, UP around 8 months back due to which he had to remain in jail for about one month and also suffered financial loss to the tune of Rs.3-4 lacs. Accordingly, Sections 302/201/34 IPC were added in the case on the basis of the disclosure statement of accused Suraj. It is alleged that accused Suraj identified the place of the incident as well as the place where they dumped the dead body of deceased in Budhpur drain. It is further alleged that on enquiry, it was revealed that a dead body of an unknown male person with similar description was recovered in Budhpur drain in the area of PS Swaroop Nagar on 18.06.2019 which was preserved in Mortuary, BJRM Hospital. Bail Appln. 348/2021

The said dead body was shown to the family members of the victim Rajpal who had identified the body as that of the victim Rajpal. It is further alleged that the shoes of the deceased and weapon of offence i.e two wooden sticks were also recovered at the instance of accused Suraj.

4. I have heard the counsel for the petitioner and learned APP for the State. I have also perused the record of this case.

5. It is submitted by the counsel for the petitioner that the name of the petitioner does not figure in the FIR, and he has been arrested only on the basis of the disclosure statement of co-accused Suraj. It is further submitted by the counsel for the petitioner that that no recovery has been effected from the petitioner, and as per the case of the prosecution the petitioner has taken the motorcycle of the deceased Rajpal, and parked near Singhu Border and the said motorcycle is not recovered by the police till date. It is further submitted that there is not even an iota of evidence against the petitioner and the Mobile No. 8369987356 in respect of which the location chart and CDR records have been placed on record by prosecuting agency is not in the name of the petitioner. It is further submitted that petitioner is in judicial custody since 15.7.2019 and trial will take substantial time. It is further submitted by learned counsel for the petitioner that the entire case of the prosecution is based on circumstantial evidence.

6. On the other hand, it is submitted by learned APP for the State the allegations against the petitioner are grave and serious in nature and offences are punishable under Section 364/365/368/302/201/34 IPC. It is further submitted by learned APP that FIR is not encyclopedia, and only after the Bail Appln. 348/2021

through investigation is conducted the name of accused was revealed in the instant case. It is further submitted by learned APP that as per the investigation what has been revealed till date is that deceased was given beatings with dandas by the petitioner and his co-accused and thereafter his body was thrown in canal at G.T.Road.

7. In the instant case, the case of the prosecution is that the deceased was abducted in the intervening night of 4-5.6.2019 and was beating badly and his dead body was thrown in G.T.Canal. The FIR was registered at the instance of the wife of the deceased initially under Section 365/368 as she suspected the involvement of co-accused but once the investigation progress the culpability of the present petitioner also came to be known. It is not that only there is a disclosure statement against the accused, but according to the prosecution, one Darshan @ Krishna has also stated that the deceased was lastly seen going with the petitioner and co-accused Suraj on motorcycle and the other accused Sahil has followed the said motorcycle by Santro Car. Apart from this, statement of one Anita, who stated to be the aunt of the applicant, has also been recorded who stated that the mobile phone which was being used by the applicant on the date of the incident belongs to her but she has given the same to the petitioner for use.

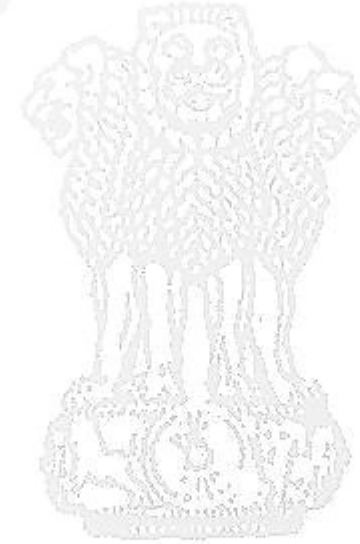
8. So, in these circumstances, it cannot be said the case of the prosecution is resting on disclosure statement, apart from this there is other material against the petitioner, like deceased was lastly seen with him by Darshan and also he was carrying a mobile phone whose location/CDR showed his presence near the crime scene. The allegations are grave and

serious in nature, investigation is going on in this case and charges are yet to be framed, at this stage, no ground for bail is made out. Therefore, the application is dismissed.

9. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

AUGUST 09, 2021/ib



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