

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

Date of decision: 8th March, 2021

+ **BAIL APPLN. 97/2021**

RAGHVENDER SINGH@ RINKU Petitioner
Through Mr. Anil Kr. Singh, Advocate with
Mr. Akhilesh Singh and Mr. Mukesh
Singh, Advocate

versus

THE STATE (N.C.T. OF DELHI) Respondent
Through Ms. Kusum Dhalla, APP for the State

AND

+ **BAIL APPLN. 101/2021**

RAGHVENDER SINGH@ RINKU Petitioner
Through Mr. Anil Kr. Singh, Advocate with
Mr. Akhilesh Singh and Mr. Mukesh
Singh, Advocate

versus

THE STATE (N.C.T. OF DELHI) Respondent
Through Ms. Kusum Dhalla, APP for the State

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. In BAIL APPLN. 97/2021 the petitioner seeks bail in FIR No.108/2019 dated 08.03.2019, registered at Police Station Paschim Vihar West, Delhi for offences under Sections 302/201/120B read with 34 IPC.

2. In BAIL APPLN. 101/2021 the petitioner seeks bail in FIR No. 109/2019 dated 09.03.2019, registered at Police Station Paschim Vihar

West, Delhi for offences under Sections 302/201/380/411/120B/ read with 34 IPC. On 08.03.2019 a dead body of a lady was found near the dirty sewer of Syeed village, Nangloi. FIR under Section 302/201 was registered.

3. A perusal of the documents on record shows that on 09.03.2021, i.e. the very next day, another dead body of a male was found near the drain of Syeed village, Nangloi. The dead bodies were found in suitcases. The investigation revealed that the dead bodies were of Jagir Singh and Gurmeet Kaur, husband and wife. The cause of death in both cases was asphyxia as a result of ante-mortem smothering. The children of the deceased couple namely Harjiner Kaur @ Anju, Pradeep Singh and Mandeep Singh leveled allegation against their sister Davinder Kaur @ Sonia and her paramour Prince Dixit @ Vikram for the murder. Efforts were made to trace Davinder Kaur @ Sonia and Prince Dixit @ Vikram. They were arrested on 10.03.2019. It is stated that they confessed the crime and they disclosed that they wanted to grab the property of the victims and hence they hatched up the conspiracy to kill the parents of Davinder Kaur @ Sonia i.e. Gurmeet Kaur and Jagir Singh. They disclosed that they hatched a conspiracy along with one Diwaker and Raghvender Singh @ Rinku, the petitioner herein and committed the murder of Gurmeet Kaur and Jagir Singh. On the disclosure statement of Davinder Kaur @ Sonia and Prince Dixit @ Vikram, the petitioner was arrested on 12.03.2019.

4. The petitioner belongs to Lucknow. In the confession statement, it is stated that Prince Dixit @ Vikram met the petitioner in Gomti Nagar and asked him for his help for committing the murder of Gurmeet Kaur and Jagir Singh for which Rs.50,000/- was promised. The petitioner confessed that greed overtook him and he along with Prince Dixit @ Vikram committed the

murder of Gurmeet Kaur and Jagir Singh. Charge-sheet was filed in both cases. A perusal of the charge-sheet also reveals that the earrings of Gurmeet Kaur were recovered from the petitioner's residence. The earrings of Gurmeet Kaur has been identified by Pradeep Singh the elder son of the deceased. The charge-sheet also states that all the accused have identified the place where the dead bodies were dumped. The charge-sheet also reveals that two CCTV footages were found wherein on 02.03.2019, Prince Dixit and Davinder Kaur @ Sonia are seen riding on a motorcycle having a suitcase between them.

5. Mr. Anil Kumar Sharma, learned counsel for the petitioner contends that the petitioner is in custody from 12.03.2019. Learned counsel for the petitioner contends that the CCTV footage does not show the presence of the petitioner. He states that the CCTV footage only shows that Davinder Kaur and Prince Dixit were carrying the dead body. He would contend that the fact that earrings of Gurmeet Kaur were recovered from his house does not connect the petitioner to the crime of Murder. He relies on the order dated 03.03.2021, in BAIL APPLN. 27/2021 where the co-accused Diwaker Singh has been granted bail by this Court.

6. *Per contra* Ms. Kusum Dhalla, learned APP appearing for the State states that the fact that the CCTV footage does not show the presence of the petitioner does not mean that the petitioner was not an accomplice. She would state that the investigation reveals that the petitioner and Prince Dixit hails from Lucknow and that Prince Dixit had offered money to the petitioner herein to participate in the crime to eliminate the couple. Learned APP would contend that the earring of the deceased Gurmeet Kaur has been recovered from the house of the petitioner. It is contended that the recovery

of earrings coupled with the fact that the petitioner and Prince Dixit were in constant touch with each other over phone and about 67 calls have been made between the petitioner and Prince Dixit @ Vikram over a period of 15 days shows the involvement of the petitioner in the crime.

7. The petitioner is accused of a heinous crime of murdering an old couple. The parameters of granting bail have been laid down by the Supreme Court in a number of cases. In Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 the Supreme Court laid down the factors that must guide the exercise of the power to grant bail in the following terms :

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the

severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Supreme Court observed as under:

“9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- 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 accusation;*
- 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 influenced; and*
- viii. *danger, of course, of justice being thwarted by grant of bail.*

10. *It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal.”*

In Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 the Supreme Court observed as under:

“12. *The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the*

considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail.”

8. The earrings of the deceased has been recovered from the house of petitioner and the same has been identified in the TIP parade. It is for him to establish in the trial as to how he came in possession of the earrings, this coupled with the fact that the petitioner was in touch with the prime accused, Prince Dikshit @ Vikram connects the petitioner to the crime.

9. Mr. Anil Kumar Singh, learned counsel for the petitioner places heavy reliance on the order dated 03.03.2021 where the co-accused, Diwaker Singh, who is the cousin of the petitioner, has been granted bail by this Court. While granting bail to Diwaker Singh this Court found that Diwaker Singh was in touch with the petitioner herein and not with the prime accused Prince Dikshit @ Vikram, unlike the present case where the petitioner was in constant touch with the main accused Prince Dikshit @ Vikram who is alleged to be the paramour of Davinder Kaur @ Sonia. This Court also found that the phone of the deceased which was recovered from Diwaker's residence had not been identified. In the present case earring of the deceased have been found from the house of the petitioner and the same has been identified by the son of the deceased Gurmeet Kaur. The petitioner's case is therefore not identical with Diwaker Singh.

10. Status report reveals that there were about 67 phone calls in a short span between the petitioner and the prime accused. The counsel for the petitioner contends that the petitioner and Prince Dixit work in the same

trade and since they are known to each other they used to speak to each other on phone and the fact stated in the status report is incorrect that about 67 phone calls were made in about 15 days. Be that as it may, this Court is not inclined to enter into specifics and it is sufficient to note that the petitioner was in regular touch with the prime accused Prince Dikshit @ Vikram at the time of the commissioning of offence.

11. The petitioner is accused of a crime of double murder. There have been recoveries at the instance of the petitioner and the item recovered from his instance belong to the deceased and they have been duly identified by the son of the deceased. The petitioner was in constant touch with the prime accused. The case is at initial stage, the charges are yet to be framed, the possibility of the accused fleeing from justice or from tempering evidence cannot be ruled out.

12. Accordingly, the bail applications are dismissed.

SUBRAMONIUM PRASAD, J.

MARCH 08, 2021

Rahul