

(VIA VIDEO CONFERENCING)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 30.07.2021

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Pronounced on : 04.08.2021

+ BAIL APPLN. 4172/2020

JYOTI

..... Petitioner

Through: Mr. Jitender Sethi, Advocate with Mr.
Hemant Gulati, Advocate.

versus

STATE, NCT OF DELHI

..... Respondent

Through: Ms. Rajni Gupta, APP for the State SI
Subhash Kumar, PS Ghazipur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present application has been filed by the petitioner under Section 439 Cr.P.C seeking regular bail in case FIR No. 74/2020, registered under Sections 302/120-B/34 IPC at P.S.Ghazipur.
2. In brief the facts of the case are that on 10.3.2020, an information was received vide DD No. 98 dated 9.3.2020 regarding the admission of one Raj Kumar in LBS Hospital. Investigating Officer, after the receipt of information reached at the abovesaid hospital, and came to know that Raj Kumar had died during the treatment. In the hospital, IO met with one Sonu, brother of the deceased and recorded his statement, on the basis of which, the present FIR was registered.

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3. As per the prosecution, about 2 years prior to the date of incident, deceased who was a home tutor and was engaged by the petitioner for teaching her as she was preparing for Central Teachers Eligibility Test, and during this period, the petitioner and the deceased came close to each other and even developed physical relations. It is alleged that this fact came to the knowledge of the husband of the petitioner who tried to persuade the deceased to call off the said relations but the deceased was adamant in continuing the relationship with the petitioner and the deceased even threatened the petitioner that he was having video of her with him with regard to their illicit relationship at Abhay Hotel at Vaishali and if petitioner would not continue with the relations, he would circulate the same. According to the prosecution, in order to make deceased understand the situation, in view of the fact that petitioner was married, and was having two minor children, he was asked to return the video which was made by him. It is alleged that on 9.3.2020 the petitioner had given a call on Mobile No. 8587084806 and asked the deceased to come to Ashirwad Apartment at Flat No. 313 belonging to the co-accused Akash. According to the prosecution, three accused persons namely, Sachin, Akash, Vijay gave beating to him in that apartment in order to get the said video which was allegedly made at Hotel Vaishali by the deceased.

4. According to the prosecution, co-accused Sachin dropped the injured outside the road of Ashirwad Apartment, and thereafter, the deceased, as per the prosecution, called his student Harshit at about 10 pm and informed him about his condition. It is alleged that on hearing this Harshit and his father came to the said place and took the injured to the hospital where the injured Raj Kumar expired.

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5. State has filed the status report.
6. It is submitted by the counsel for the petitioner that petitioner is a lady aged around 32 years having two minor children. It is further submitted that the only allegation against the petitioner is that she made a call to the deceased Raj Kumar at about 4.30 pm asking him to come to the said flat situated at Ashirwad Apartment, and after dropping her to the said place she had gone to the Chemist Shop which was being run by her husband. It is further submitted by the counsel for the petitioner that the deceased had made two calls to the petitioner one at 9.20 pm and 9.22 pm which clearly show that petitioner was not present at the spot or at the apartment in question. It is further submitted that petitioner is a lady and mother of two minor kids, and she has no role in the murder of Raj Kumar. It is further submitted that she has only dropped the petitioner near the apartment as her husband wanted to talk to him, and to take back the video of the petitioner and the deceased so that she may not be maligned in the society. It is further submitted that the petitioner was not aware as to what transpired in the apartment and she was not aware as to how and in what manner the video would be taken from the deceased
7. Counsel for the petitioner has relied upon the judgments in the cases of *Nirmala Vs. State of Haryana, Criminal Misc. No. 3489-M of 1988 dated 7.6.1988*; *Smt. Bimla Vs. The State of Haryana, 1982 CC Cases 185 (HC)*; *Smt. Prabhu @ Habu Vs. State of Rajasthan through Public Prosecutor Bail Appln. 9019/2012 decided on 6.9.2012*; *Illaben Wd/o Dipankumar Dhanraj Vs. State of Gujarat (1993) 2 GLR 1148*.
8. On the other hand, learned APP has argued on the line of the status report. She has vehemently opposed the bail application of the petitioner

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contending that petitioner is the part of conspiracy and the deceased was brutally beaten to death and the videos were made by the co-accused persons regarding the beatings which were given to the deceased. It is not denied that the petitioner is the mother of two minor children, who according to the prosecution, has been arrayed as the main accused in the case.

9. As far as antecedents of the petitioner is concerned, status report shows that she has no previous involvement.

10. In the instant case, even as per the prosecution, the petitioner is the young mother of two minor children. She was involved in illicit relations who happened to be her tutor. The petitioner wanted the video recordings made by the deceased back from him so as to save her image in the society, and for that purpose, the petitioner narrated the entire facts to her husband. According to the prosecution, the petitioner had dropped the deceased near the Ashirwad Apartment from where the deceased had gone to flat no. 313. Nothing is appearing on record to show that petitioner at any point of time had any knowledge that deceased would be beaten so badly or what would be done with the petitioner by other co-accused once he was in the said apartment.

11. There is nothing given in the disclosure statement which would reveal that the petitioner at any point of time had knowledge that deceased would be killed and the only role assigned to her is that she dropped the deceased near Ashirwad Apartment at about 4.30 pm. Even otherwise there is no communication between the petitioner and other co-accused from 4.30 pm till the time her husband came back to chemist shop.

12. Looking into the entire facts and circumstances of the case, and the role attributed to the petitioner, and also the fact that she is young lady and

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mother of two minor children, her husband Sachin is also in judicial custody, therefore, petitioner is admitted to bail on her furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of trial court concerned.

13. The application stands disposed of accordingly.

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

RAJNISH BHATNAGAR, J

AUGUST 4, 2021/ib