

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1053/2021**

Date of decision: 23rd AUGUST, 2021

IN THE MATTER OF:

RANJEET @ BHIM

..... Petitioner

Through Mr. Sugam Puri, Advocate

versus

STATE

..... Respondent

Through Mr. Amit Chadha, APP for the State
SI Soamya Kulhar, PS Ambedkar
Nagar.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This petition filed under Section 439 CrPC is for grant of regular bail to the petitioner in FIR No. 110 /2018 registered at Police Station Ambedkar Nagar for offences under Sections 302, 201 and 34 IPC.
2. On a complaint made by one Bunty S/o Vijay Kumar, R/o B-660 Dakshin Puri, Ambedkar Nagar, New Delhi, FIR No. 110 /2018 was registered at Police Station Ambedkar Nagar for offences under Sections 302, 201 and 34 IPC. It is stated that the complainant is a driver. It is stated that on 02.03.2018 at about 3:30 PM he and his brother Sonu went to Sanjay Camp to get food on their Scooty bearing No.DL-3S-DU 6292. It is stated that they were stopped midway by five accused i.e. Aman, Naveen @ Momos, Sindhu, Annu and the Petitioner herein. It is stated that the accused

started assaulting the complainant and his brother. It is stated that during the assault the complainant ran away. It is stated that Sonu was held by the Petitioner, and was stabbed continuously by Aman and Naveen. It is stated that Sonu became unconscious and was taken to Batra Hospital by the complainant. It is stated that on arrival, Sonu was declared as brought dead by the Doctors vide MLC No.13628. In the MLC, it is stated that there are multiple stab wounds on the neck, chest and stomach of the deceased.

3. During investigation, accused Naveen @ Momos and Aman were identified by the complainant. The scooty bearing No. DL-3S-DU-6292 was seized. The accused Aman declared that he had known the deceased, Sonu, for 10-12 years, and around six months back, the deceased, at a social function hosted by him, fought with the DJ and was thrown out of the party. He stated further that the deceased used to urinate at the gate of his house. He stated that on the day of Holi i.e. 02.03.2018 he alongwith Naveen @ Joginder @ Momos, Sudhi @ Sagar, Deepak @ Patanga and Annu were standing ahead of a School in J-Block Dakshinpuri and Naveen was carrying a knife which was bought from Haridwar. He deposed that when Sonu arrived with the complainant, Annu, Sudhi, Patanga and the petitioner herein held Sonu from behind, and he and Naveen gave knife blows to Sonu. He further stated that Naveen also suffered injuries and was admitted to Batra Hospital by him, he importantly stated he hid the knife from which attack was made near the emergency gate of Batra Hospital. Accused Aman's disclosure statement was recorded and the knife was recovered at his instance. The blood-stained clothes of the Aman and Naveen were also found after his disclosure.

4. The Petitioner, Annu and Deepak were arrested on 04.03.2018. The complainant identified them as the attackers.
5. During investigation, 8 sealed exhibits including the knife allegedly used in crime have been sent to forensic examination. The Forensic report stated that the blood on knife matched with the DNA of deceased Sonu. The post mortem report had been prepared by AIIMS New Delhi, it said that deceased. Sonu had died of a shock as a result of the large number of injuries caused by a sharp-edged weapon. The investigation revealed that an erstwhile rivalry had existed between accused Aman and deceased. Sonu which dated back to the alleged nuisance that deceased created by quarreling with the DJ at a social function/party.
6. The Petitioner was in custody since 4.3.2018 and was granted interim bail by the Ld. Trial Court under the HPC Guidelines on 20.6.2021. He was on interim bail for a period of 9 months and surrendered to Police custody on 12.3.2021.
7. It has been brought to the Court's notice that the Trial has begun and initially at the time of filing chargesheet, a list of 26 witnesses was prepared and now only 16 witnesses are shortlisted for deposing at Trial. Out of the 16 witnesses, 5 including the complainant and public witnesses have been examined by the Trial Court so far.
8. Mr. Sugam Puri, the learned Counsel for the Petitioner, submitted that the Petitioner had been in custody for a period of 2.5 years and due to Covid-19 pandemic the Trial is unlikely to continue for a long duration. Further, Mr. Puri contended that the public witnesses have already been examined and they been declared hostile by the Trial Court. He therefore prays that the petitioner be enlarged on bail.

9. *Per contra*, Mr. Amit Chadha, Ld. APP submitted that the Petitioner played a critical role in the crime by catching hold of Sonu thereby enabling accused Aman and accused Naveen to inflict knife blows to Sonu. It was contended that the Petitioner was aware of the rivalry between Aman and Sonu from the time Sonu created a ruckus at the party hosted by Aman. It was submitted that the deceased was injured in a brutal manner with 24 stab wounds on his neck, chest and stomach. It was submitted that the arrest of the Petitioner was made at the instance of complainant and the arrest memo bears of Petitioner the signature of complainant. Lastly, it was submitted that the wife of the deceased had to be dropped as a witness in trial owing to pressure tactics adopted by other accused's relatives and the danger of releasing the Petitioner on bail is that he may influence the remaining witnesses to be examined.

10. Heard both the parties. It is well settled that while granting bail a balance needs to be maintained between the personal liberty of a person and the possibility of an accused evading the processes of law which may result in the subversion of justice and the erosion of administration of criminal system.

11. From a perusal of the material on record, it is noticed from the statement of the Petitioner in the chargesheet that he had known of the enmity between the co-accused Aman and deceased Sonu, and had mentioned the party/function incident where Sonu had an altercation with the DJ about six months prior to the killing of Sonu. The role of the Petitioner has been elaborated in the FIR, namely that he along with other co-accused stopped the scooty on which the complainant and deceased were travelling, and the Petitioner gripped the deceased from behind when

repeated knife blows were inflicted on him by Aman and Naveen @ Momos. The Petitioner incapacitated the deceased by forming an overpowering clasp of the deceased's body thereby enabling the other accused to attack him.

12. It has been brought to this Court's notice that the Trial has already commenced and that from a list of 16 witnesses, 5 have already been examined. The complainant in the case, who is the brother of the deceased, has given his statement. He has identified the Petitioner in Court. Furthermore, the public witnesses i.e. the FSL attendant, the doctor who conducted the Post-Mortem, the assistant at Batra Hospital who was present when the deceased was brought there have also deposed.

13. The heinousness of crime is a very important fact which has to be kept in mind while deciding whether to grant or decline an application for bail.

14. It would be pertinent to quote the judgment of the Supreme Court in Prasanta Kumar Sarkar V. Ashis Chatterjee, (2010) 14 SCC 496 where the conditions for granting bail by the High Court are enumerated. The Supreme Court held as follows-

“.....

- (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.”

15. The petitioner is accused of a brutal murder and punishment for murder is either imprisonment for life or death. Keeping in mind the nature of crime, the fact that the petitioner had not abused the interim bail granted to him by the learned Additional Sessions Judge-02, (South) New Delhi *vide* order dated 20.06.2020, does not persuade this Court to grant regular bail to the petitioner. In any event, it is well settled that the HPC guidelines are not binding on the Courts. The danger of the petitioner absconding and the apprehension of the petitioner influencing the witnesses , if granted regular bail, cannot be ruled out at this juncture. Keeping in mind the nature and the manner in which the incident has occurred, this Court is not inclined to grant bail to the petitioner.

16. Accordingly, the bail application is dismissed.

SUBRAMONIUM PRASAD, J

AUGUST 23, 2021

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