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

% *Order pronounced on 26.07.2022*

+ BAIL APPLN. 1019/2022

SHAILENDER SINGH @ SONU Petitioner
Through: Mr. Harsh Vardhan Sharma, Adv.

versus

THE STATE NCT OF DELHI Respondent
Through: Mr. N.S. Bajwa, APP for State.

CORAM:
HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The petitioner has moved this bail application in case FIR No.613/2019 under Sections 365/302/376//392/411/201/34 IPC registered at PS Paschim Vihar West, Delhi.

1.1 He is stated to be in JC since 29.01.2020. It has been submitted that when the petition was filed at that stage charges were yet to be framed. The prosecution has cited 24 prosecution witnesses and out of which none of the witness is such which could be influenced or tampered with by the petitioner.

1.2 The regular bail filed before the learned ASJ was dismissed on 19.01.2022. The bail has been prayed on the ground that more than 2 years and 3 months had passed but the trial is yet to begin; petitioner is in custody since the date of his arrest and charges are yet to be framed; the entire case of the prosecution is based on circumstantial evidence and disclosure statements; the petitioner was arrested on the basis of disclosure statement of



co-accused Harpreet Singh; there is no CCTV footage or mobile phone location which connects the present petitioner with the alleged offence; there is nothing on record to show that the petitioner had committed the murder, the car recovered by the prosecution has no finger prints or chance prints of the petitioner; the prosecution has stated that one trolley bag allegedly belonging to the deceased has been recovered from his home but there is no witness to the said recovery; another allegation is that the petitioner had given the mobile phone to his girl friend and she has admitted the same in her statement under Section 164 Cr.P.C. but again there is no recovery witness; the prosecution case is based on surmises and conjectures; the petitioner is not directly concerned with the witnesses, investigation of the matter is complete and the petitioner is no longer required for any further investigation, 'Bail is the 'Rule' and Jail is an exception'; there is no previous involvement of the present petitioner; petitioner belongs to a respectable family and is a permanent resident of the address given in the petition, which has been verified, hence there is no chance of his absconding or fleeing from justice and he shall appear on every date before the Court.

2. Notice was issued. Status report has been filed. It has been submitted that on 19.11.2019 a complaint was lodged regarding missing report in respect of Ms. Narinder Kaur, aged 59 years, at PS Paschim Vihar West, Delhi mentioning therein that she had left for Amritsar on 06.11.2019 in her car along with an unknown driver. She was in contact with the complainant till 12.11.2019 on her mobile number but her mobile phone was switched off on 13.11.2019. On 14.11.2019, some unknown person attended the call of the complainant and informed the location of the victim at Kartarpur Gurudwara. On 30.12.2019, in furtherance of the missing report,



complainant alleged that Ms. Narinder Kaur was abducted and missing, so an FIR No. 613/2019 under Section 365 IPC was registered at PS Paschim Vihar West and investigation was taken up. It was found that the hand set of the missing person was used by someone with a new mobile number and the said SIM was issued in the name of one Harpreet Singh. The abandoned car of the victim was recovered on 07.01.2020 at GT Raod, near Rajasthan Feeder Canal, Punjab. On 20.01.2020, one of the accused namely Harpreet Singh was arrested at Punjab, who disclosed that he along with his friend, applicant/accused had abducted, robbed and murdered the victim and thereafter they had disposed of the dead body.

2.1 The applicant was arrested on 29.01.2020. During investigation, the trolley bag of the victim was recovered from him. The accused/applicant and the co-accused Harpreet Singh had disclosed that they had taken the victim to the house of one of their friend named Jitender, where the victim was raped by Jitender's father Sukhraj Singh. Sukhraj Singh accordingly was arrested on 12.02.2020. Certain recoveries were made at the instance of Sukhraj Singh also. The trolley bag recovered at the instance of the applicant/accused was duly identified by complainant; efforts were made for recovery of the dead body but the same could not be recovered. Permission was taken for taking the Polygraph test and brain mapping test regarding the offences as well as whereabouts of the the dead body.

2.2 Accused/applicant had refused to undergo the said test. Mobile phone used by the victim, mobile number used by Harpreet Singh and the mobile phone used by the present applicant had shared a common location during the period 11.11.2019 and 14.11.2019. Nokia hand set of the deceased victim was found to be used by one Ms. Narinder Kaur. Upon examination,



she had stated that the said mobile phone was given to her by accused Shailender (applicant) and Harpreet Singh. Later, she had disposed of this mobile handset. The said statement of Ms. Narinder Kaur was recorded under Section 164 Cr.P.C.

3. Ms. Narinder Kaur was in regular contact with accused Shailender and Harpreet Singh. Charge-sheet stands filed and all the accused are in judicial custody and the bail is strongly opposed as accused has no roots in Delhi and he may misuse the liberty of bail and may not join further proceedings and trial of the case.

4. Arguments have been heard. During arguments both the sides have reiterated the facts mentioned hereinabove. It is correct that present case is the case of circumstantial evidence, dead body of deceased Narinder Kaur could not be recovered but *prima facie* there is overwhelming evidence available on record which connects the present accused/applicant with the crime and the said evidence, apart from recovery of the trolley bag of the deceased at the instance of the present applicant, mobile handset of the deceased being given by the petitioner to his girl friend and the scientific evidence of mobile phone location of accused Shailender, Harpreet Singh and deceased Narinder Kaur had been same during the relevant period from 11.11.2019 to 14.11.2019 and these facts *prima facie*, show involvement of the present applicant in the crimes committed.

5. The charges are yet to be framed and the evidence of the witnesses are yet to be recorded. The possibility of the present petitioner influencing, coercing or threatening the witnesses at the stage is not ruled out.

6. Keeping in view the heinous nature of the crime, the stage of trial and the fact that evidence of the witnesses is yet to be recorded, I do not think this



case to be fit for grant of bail.

7. The bail application filed by the present applicant is hereby dismissed.

TALWANT SINGH, J

JULY 26, 2022

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