



(VIA VIDEO-CONFERENCING)

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

Reserved on : 06.01.2022
% Pronounced on : 20.01.2022

+ BAIL APPLN. 850/2021

AJAY DEDHA

..... Petitioner

Through: Mr. Joginder Tuli, Ms. Joshini Tuli
and Mr. Ishu Sharma, Advs.

versus

STATE (NCT OF DELHI)

.... Respondent

Through: Mr. K.K. Ghei, APP for the State with
Insp. Vijay Pal, P.S. Timarpur.

+ BAIL APPLN. 1158/2021

Varsha

..... Petitioner

Through: Mr. Mohd. Nasir and Mr. Mohd.
Tabrez, Advocates.

versus

THE STATE (DELHI ADMN) DELHI

.... Respondent

Through: Mr. K.K. Ghei, APP for the State with
Insp. Vijay Pal, P.S. Timarpur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR



ORDER

RAJNISH BHATNAGAR, J.

1. The present bail applications have been filed by the petitioners under Section 439 Cr.P.C. R/w section 482 Cr.P.C. seeking regular bail in case FIR No. 219/2020 under Section 302/201/34 IPC registered at P.S. Timar Pur.

2. Briefly stated, the facts of the case are that on 15.05.20 a PCR call vide DD No. 5A was received at PS Timar Pur stating "Yamuna me kisi ki dead body padi hui hain" and the same was marked to ASI Kailash for further action. After reaching the spot i.e. Signature Bridge, Paltoon pool an unidentified dead body was found in the Yamuna River. The spot was also inspected by the Distt Crime Team.

3. On 22.05.20 the dead body was identified as that of Ajab Singh S/o Mange Ram by the mother of the deceased. Thereafter, on 23.05.20 postmortem of the dead body was conducted at Subzi Mandi mortuary vide PM No. 552/20 and then the dead body was handed over to the family of deceased. As per the PM report, "cause of death in this case is asphyxia as a result of ante mortem manual strangulation which is sufficient to cause death in ordinary cause of nature, manner of death: Homicide".

4. On 07.09.20 Smt. Bati Devi W/o Lt. Sh Mange Ram made a complaint vide DD No. 86A at PS Timar Pur, Delhi regarding the
BAIL APPLN. 850/2021 & 1158/2021



murder of his son Ajab Singh S/o Late Sh. Mange Ram. The complainant alleged that her daughter in law, Varsha (wife of deceased Ajab Singh) and her grandson Ajay S/o Azad Singh (Azad Singh is elder brother of deceased Ajab Singh), the present petitioners have an illegitimate relationship, which came to the knowledge of deceased Ajab Singh. According to the complainant on 14.05.20 there was a quarrel between Ajab Singh and his wife over this issue. According to the complainant on that night Varsha, wife of deceased Ajab Singh came to Smt Bati Devi and stated that Ajab Singh and his motorcycle were not at home. Next day they searched for Ajab Singh everywhere but could not find him. On 16/05/2020 petitioner Varsha got registered a missing report regarding deceased Ajab Singh in PS Shastri Park vide DD No. 10A dated 16.05.20. The complainant Bati Devi further alleged that she has full suspicion on her grandson Ajay and daughter in law Varsa (petitioners herein) because her grandson Ajay threatened her by saying "as I killed your son I will kill you if you will come in between me and Versha." On the above-mentioned complaint, FIR No. 219/20 U/s 302/34 IPC was registered and investigation went underway.

5. I have heard the Ld. counsels for the petitioners, Ld. APP for the State, perused the Status Report and also perused the records of this case.



6. It is submitted by the Ld. counsel for the petitioner Varsha that the petitioner has been falsely implicated in this case. He further submitted that the mother of the deceased at the very first instance has not placed suspicion on anybody and only after more than 3 months of the incident the mother of the deceased has lodged the FIR against the petitioner and her co-accused and there is a delay of more than 3 months in registering the FIR. He further submitted that the cause of death as per the postmortem report is due to asphyxia due to manual strangulation whereas as per the death report dated 23.05.2020 it is mentioned that the cause of death is due to drowning. He further submitted that the petitioner is in J.C. since 19.09.2020 and has two minor children. He further submitted that this is a case of no evidence against the petitioner. He further submitted that there is nothing to suggest that the petitioner Varsha followed the deceased when he left the house or she informed co-accused that deceased has left the house.

7. It is further submitted by the Ld. counsel for the petitioner Varsha that the motorcycle and mobile phone of the deceased have not been recovered and the deceased came to his house and thereafter he left the house and it was on the next day that the mother of the deceased and the petitioner had gone to the police station for lodging the missing report. He further submitted that the FIR had been registered only on the premise that the mother of the deceased had said that co-accused Ajay Dedha said to her that he would kill her as he had



killed her son. He further submitted that it is highly improbable that anybody would keep the weapon of offence i.e. danda in the house only to be recovered after 5 months. He further submitted that the body of the deceased was found about 10 Km. away from the house of the petitioner and it is highly improbable that none of the cameras installed on the way to the place where the dead body was found captured either the petitioner or the co-accused moving around at any point of time or carrying with them anything.

8. Ld. counsel for petitioner Ajay Dedha has adopted the same arguments as addressed by the counsel for petitioner Varsha and further submitted that there is not even an iota of evidence to suggest that the petitioners were having illicit affair.

9. On the other hand, it is submitted by the Ld. APP for the State that the allegations against the petitioners are grave and serious in nature and public witnesses are yet to be examined. He further submitted that the petitioners were interrogated and in their disclosure statements they had stated that they had killed Ajab Singh by strangulating him. It is further submitted by the Ld. APP that weapon of offence i.e. danda was recovered from the house of petitioner Varsha at the instance of both the petitioners. He further submitted that there were blunt injuries which were caused by danda recovered at the instance of both the petitioners.



10. In the instant case, a dead body was found on 15.05.2020 in river Yamuna. The dead body was identified by the mother of the deceased as that of Ajab Singh. The mother of the deceased has not placed any suspicion on anybody on the said date and the cause of death was asphyxia as a result of ante-mortem manual strangulation. It was only on 07.09.2020 that the mother of the deceased lodged the present FIR and placed suspicion on her grandson petitioner Ajay Dedha and daughter in law petitioner Varsha as her grandson had threatened her that he would kill her as he has killed her son and asked her not to come in between him and Varsha.

11. The mother of the deceased on 15.05.2020 in her first statement has only stated that on 14.05.2020 her son after some altercation with petitioner Varsha left the house in a drunken state on motorcycle and thereafter did not return, so they searched and on 16.05.2020 a missing report was lodged. There is nothing in her statement to suggest that petitioner Varsha followed the deceased when he went out of the house or informed anyone about his leaving the house.

12. As per the case of the prosecution, on 14.05.2020 petitioner Varsha had called the co-accused/petitioner Ajay Dedha at her house at 8:30 p.m. and it is then they had killed Ajab Singh by strangulation and took the body of the deceased on his motorcycle and dumped the body on Paltoon pool. But here, it is pertinent to note that according to the



mother of the deceased the deceased had left the house on 14.05.2020 at about 9:00 p.m. in a drunken state and he did not return thereafter, meaning thereby, the complainant had seen the deceased leaving the house on 14.05.2020.

13. No doubt, at the stage of bail only prima facie case is to be seen but the Court cannot shut eyes to the material facts and circumstances emerging from the record. In the instant case, as per the case of the prosecution itself the death is due to strangulation, therefore, the recovery of danda at the instance of petitioners is meaningless and it is a joint recovery.

14. In the instant case, apart from danda, no other recovery has been effected at the instance of the petitioners/accused persons. There is no evidence of last scene. Rather, the mother of the deceased has stated that the deceased has left the house alone in drunken condition on 14.05.2020 never to come back. As per the case of the prosecution itself, which has opened up on the basis of the disclosure statement of the accused persons/petitioners danda is not connected with the offence.

15. Therefore, in view of the entire facts and circumstances of the case, both the petitioners who are in J.C. since 19.09.2020 are admitted to bail on their furnishing personal bond in the sum of Rs. 50,000/- each with one surety each of the like amount subject to the satisfaction



of the concerned court below. The application is disposed of accordingly.

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

RAJNISH BHATNAGAR, J

JANUARY 20, 2022

Sumant

