



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

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Reserved on : 12.09.2023

Pronounced on : 16.10.2023

+ **BAIL APPLN. 235/2020**

DINESH

..... Petitioner

Through: Mr. Piyush Pahuja, Advocate and Mr.
Upender Kumar, Advocate
(through VC)

versus

STATE

.... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
with Insp. Rajesh Malik, B.P.
Bindapur and SI Dharmaveer, P.S.
Chhawla.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case FIR No. 130/2012 U/s 302/120-B/201/34 IPC registered at Police Station Chhawla.

2. Briefly stated, the facts of the present case are that on 13.06.2012, DD No. 16 A was received at P.S. Chhawla with regard to the fact that some foul smell was coming from a locked house. SI Hari Singh alongwith Ct. Ramesh reached at the spot i.e. House No. B-12, Shyam Vihar, Phase-I, Najafgarh, Delhi. The lock of the house was broken and the dead body of an aged person was found. The hands, legs and head were severed and the

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dead body was in highly decomposed state. Weapon of offence was also lying at the spot. The identity of the deceased was revealed as one Sanjay Kumar Rohilla who was missing alongwith his car bearing No. DL-4CAD-7920 since 06.06.2012 and a missing report in this regard was registered vide DD No. 10 A dated 08.06.2012.

3. The above said car was found unclaimed at Tejpur Goyal Khurd Road on 07.06.2012 and a mobile phone make LG without SIM was also found lying in the said car. The statement of the son of the deceased was recorded who stated that the deceased was running his office with his partner namely Radha. On 19.06.2012, accused Mohd. Khalid @ Altaf and his wife Radha (co-accused) were arrested who confessed to their involvement in the present case with the help of co-accused Jeetu and petitioner.

4. I have heard the Ld. counsel for the petitioner, Ld. APP for the State, perused the Status Report and also perused the records of this case.

5. It is submitted by the Ld. counsel for the petitioner that the petitioner is in J.C. for the last more than 7 years. It is further submitted by the Ld. counsel for the petitioner that co-accused Radha has been granted bail vide order dated 16.01.2018 and the petitioner seeks parity. It is further submitted that all the public/material witnesses have been examined and no useful purpose would be served by keeping the petitioner in J.C. It is further submitted that the only incriminating circumstance as alleged by the prosecution against the petitioner is the recovery of the black purse of the deceased at the instance of the petitioner and his phone call records to show that the petitioner conspired with the other co-accused persons in order to



commit the crime.

6. It is further submitted by the Ld. counsel for the petitioner that the petitioner has been falsely implicated and there are major discrepancies in the seizure memo of the recovered articles and the articles when they were produced in the Court for identification purposes. It is further submitted that the number of articles seized as per the seizure memo did not match the number of articles when they were produced in the court for the identification purposes and shown to PW-2 and PW-5.

7. It is further submitted that according to the prosecution black purse was recovered as per the seizure memo but it was never shown to PW-1 wife of the deceased and PW 2 Yog Raj for identification through TIP and the same was identified by PW-2 for the first time before the Court. It is further submitted that the recovery of purse on 21.06.2012 is also doubtful in view of the testimony of PW-5. It is further submitted that the recoveries are a very weak piece of evidence and the recovery of the purse at the instance of the petitioner is doubtful since the articles contained in the purse were not the same as alleged in the seizure memo dated 21.06.2012. So the tampering could not be ruled out.

8. It is further submitted that the prosecution is trying to prove the location of the petitioner as Shyam Vihar since the petitioner was residing in the same street from where the dead body was recovered and it is further submitted that the phone number 9873871184 does not belong to the petitioner so its location is immaterial.

9. On the other hand, it is submitted by the Ld. APP that the petitioner



is not entitled to parity with co-accused Radha as she was admitted to bail being a lady having a five year old daughter. He further submitted that the petitioner has been charged with a gruesome murder in which the dead body was cut into pieces and the petitioner has conspired with other co-accused persons to commit the crime. It is further submitted that though the public witnesses have been examined but this is not the stage to analyze the testimonies of the witnesses in depth. It is further submitted that the purse of the deceased containing various documents and photographs of the deceased was recovered at the instance of the petitioner and he had been in touch with the other accused persons through mobile phone used by him. It is further submitted by the Ld. APP that the disposal of the dead body was carried out by the petitioner in conjunction with other accused persons by dismembering the body parts.

10. In my opinion, the petitioner is not entitled to parity with co-accused Radha who had been granted bail vide order dated 16.01.2018 as she had been primarily granted bail on the ground that she is a lady having a five years old daughter. The present petitioner has been charged and facing trial in the instant case as he has pointed out the place of occurrence and purse of the deceased containing various articles was recovered at his instance. Though, the Ld. counsel for the petitioner has argued that there is some discrepancies in the articles seized vide seizure memo and the articles shown to the Magistrate during the TIP as they are not the same in number. But in my opinion, this is not the stage to deeply analyze the seizure memo and the TIP proceedings in depth to point out the contradictions between them so as to doubt and discredit the seizure memo in toto or the testimonies of the



witnesses examined so far, as the same may prejudice the case of either of the parties.

11. The recoveries have been effected at the instances of the petitioner. As per the case of the prosecution, the petitioner has also pointed out the place of occurrence and he was in touch through mobile phone with other co-accused persons, therefore in these facts and circumstances and also looking into the nature and gravity of the offence, no ground for bail is made out. The bail application is, therefore, dismissed. However, since the matter is quite old, the Ld. Trial Court to dispose of this case as expeditiously as possible.

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

RAJNISH BHATNAGAR, J

OCTOBER 16, 2023

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