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

+ **BAIL APPLN. 229/2024**

BALRAM @ ROSHAN LAL

.....Petitioner

Through: Mr. Abhinav Bajaj (DHCLSC),
Mr. Saksham Ojha, Ms. Geetashi
Chandna and Ms. Tapas Tyagi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

23.08.2024

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1. An application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 0266/2017, under Sections 302/397/34 IPC, registered at P.S.: Amar Colony. Chargesheet has been filed under Sections 302/397/396/412/120B IPC.

2. In brief, as per the case of prosecution, on 11.07.2017 Manak Lal Kala (complainant) left home for his workplace at Faridabad leaving behind his wife and son Tushar, who was also ready to leave for work. When complainant came back at about 03:15 PM, he found that door was locked. When he opened the door with a key available with him, he saw that cupboards kept in storeroom and bedroom were open and items were scattered on the floor. Sarita (wife of complainant) was lying inside the bed box in the room besides the drawing room and one of his servants Rajan was also tied up in the same room. The mouth of his wife was tied up with a *khakhi* colored tape and was found bleeding from mouth.



3. Rajan (servant of complainant) informed the complainant that 3-4 boys had entered the house and were talking to the other servant Balram @ Roshan Lal (Petitioner) through actions. The accused asked for the keys of cupboard from the wife of complainant and thereafter, took her inside the bedroom and tied her with *chunni*. Thereafter, accused took away jewellery and cash and fled with servant Balram @ Roshan Lal (Petitioner). Complainant also informed that petitioner had been hired from an agent named Prince from a placement agency about 12 days prior to the incident.

4. During course of investigation, it was revealed from CCTV footage that two boys were roaming on the road and thereafter, three persons entered into the house of complainant. One of the said boys was identified by the son of complainant to be their servant Balram @ Roshan Lal (Petitioner). Further, the chance finger prints were collected from the crime scene and one of the prints matched with the right thumb impression of petitioner Balram @ Roshan Lal. Also, an amount of Rs. 1,50,000/- cash along with jewellery items were recovered at instance of petitioner, apart from recovery from other co-accused.

5. Learned counsel for petitioner submits that no offence of dacoity is made out since number of assailants were less than five. He further submits that Section 302 IPC has to be independently proved from the charge of dacoity and the facts and circumstances do not disclose that petitioner was part of commission of offence of murder. He also points out that petitioner is in custody for about seven years.

6. On the other hand, learned APP for the State vehemently opposes the application and submits that recovery of robbed articles along with the chance finger prints of the petitioner left at the spot, clearly reflect that offence was



committed in furtherance of common intention. He also points out that entry of accused in the house had been given by the petitioner and the offence could not have been committed until and unless petitioner had communicated to the co-accused, as to the non-availability of other family members in the premises. He emphasizes that offence was committed in conspiracy and petitioner was left by the co-accused though the deceased as well as other servant Rajan had been tied up.

7. On the face of record, commission of offence in furtherance of common intention, is apparent from the fact that the petitioner had left with the co-accused after commission of offence. It also cannot be ignored that the part of the robbed jewellery along with cash amounting to Rs. 1,50,000/-, which was looted from the premises, was recovered at the instance of petitioner. The submissions made by learned counsel for petitioner that no evidence exists on record to link the petitioner with the offence of murder is without any merit.

8. Considering the facts and circumstances, heinous nature of offence and evidence on record, no grounds for bail are made out.

Application is accordingly dismissed. Pending applications, if any, also stand disposed of.

However, learned Trial Court is expected to make an endeavour to conclude the trial in a time bound manner since the petitioner is stated to be in custody for about 7 years.

A copy of this order be forwarded to the learned Trial Court for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

AUGUST 23, 2024/R