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

+ **BAIL APPLN. 366/2024**

HEMANT KUMAR

..... Petitioner

Through: **Mr. B.B. Tiwari, Advocate**

versus

STATE GOVT. OF DELHI & ANR.

..... Respondents

Through: **Mr. Manoj Pant, APP for the State
with Inspector Yogesh Kumar, P.S.:
Prasad Nagar.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% **01.02.2024**

CRL.M.A. 3189/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking grant of bail in FIR bearing no. 32/2019, registered at Police Station Prasad Nagar, for offences punishable under Sections 302/323/341/147/148/149 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27/54/59 of the Arms Act, 1959.

4. Briefly stated, the facts of the present case are that a PCR call regarding stabbing of a person with knife was received *vide* DD No. 03A, after which the concerned official had reached the spot and had found blood scattered on the road. During the course of investigation, it was found that



injured victim i.e. Guruprasad was undergoing treatment. An FIR bearing no. 32/2019 for the offence punishable under Section 307 of IPC was registered at Police Station Prasad Nagar, Delhi on the basis of the MLC of victim. During the course of investigation, the victim had passed away on 24.01.2019 and subsequently, Section 302 of IPC was added in the present FIR. During investigation, CCTV footage was analysed wherein the deceased was seen being beaten up by a few persons. It is alleged that the present applicant Hemant and co-accused Roshan were passing through the street where the deceased was standing and the applicant had thought that the deceased had thrown a beer bottle towards them, which had led to an altercation between them. During the altercation, applicant Hemant and co-accused Roshan had called their associates and all of them had started beating the deceased, first with fists and legs, and later on had stabbed the deceased with knife.

5. Learned counsel for the present accused/applicant submits that applicant has been falsely implicated in the present case. It is stated that applicant was 19 years old at the time of incident, and he has been in judicial custody since 02.02.2019. It is further argued that it was the injury caused by the co-accused Vikram which has resulted in death of victim, and Vikram was already been released on bail by this Court *vide* order dated 22.03.2023. it is also stated that seven other co-accused have been granted regular bail, and therefore, applicant be enlarged on bail.

6. Learned APP for the State, on the other hand, submits that applicant had played an active role in commission of offence and had hit the victim with a beer bottle on his head. However, the fact that other co-accused having similar role or larger role have been granted bail.



7. I have heard learned counsel appearing on behalf of the applicant as well as learned APP for the State.

8. In this case, the victim was allegedly beaten up by the accused persons and he had later succumbed to the injuries. The applicant herein is one of the co-accused persons, who allegedly had called his associates at the spot and had hit the victim with a beer bottle.

9. The incident in this case pertains to the year 2019, and the applicant has been in judicial custody since 02.02.2019, i.e. for almost a period of five years. The co-accused persons in this case, including co-accused Vikram who had allegedly stabbed the victim, have already been granted regular bail, either by this Court or by learned Trial Court. The eye witness i.e. PW-5 has already been examined before the learned Trial Court.

10. Keeping in view all the facts and circumstances of the case and the fact that the accused is in custody since 02.02.2019, and trial will take some time to conclude, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
- ii) The applicant shall provide his contact number to the IO concerned, on which he can be contacted if required.
- iii) In case of change of residential



address/contact details, the applicant shall promptly inform the same to the concerned Court.

11. Accordingly, the bail application stands disposed of.
12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 1, 2024/at

Click here to check corrigendum, if any