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

+ **CRL.M.C. 817/2024**

TABASSUM

.....Petitioner

Through: Mr. Jatin Raheja, Ms. Mansi Joshi,
Advs.

versus

STATE NCT OF DELHI AND ANR.Respondents

Through: Mr. Aman Usman, APP

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

29.11.2024

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1. This is a petition seeking setting aside of the order dated 11.07.2023 and 06.12.2023 passed by the learned ASJ, Karkardooma Court, New Delhi in FIR No. 477/2023 dated 18.06.2023 u/s 304 IPC registered at PS New Usmanpur wherein the respondent No. 2 was granted bail.
2. The facts of the present case are that on 17.06.2023, a call was received by SI Sudhanshu Singh who reached the spot i.e. Ganda Nala near temple where a crowd had gathered. It was disclosed that two persons had fallen in the Nala out of which one was saved and the other was not traceable. The person who was saved was Vijay i.e. respondent No. 2 and the other person whose body was recovered was the son of the petitioner.
3. There was an altercation between the respondent No. 2 and the son of the petitioner as a result of which both fell down in the Nala. People tried to save them but the son of the petitioner could not be saved.



4. The learned Sessions Court was of the view that the fact whether the victim had fallen down in the drain under the influence of alcohol or was thrown by respondent No. 2 or whether respondent No. 2 was the aggressor in the fight could only be determined after the trial. Hence, respondent No. 2 was granted bail.

5. The petitioner filed an application seeking cancellation of bail which was disposed of on 05.12.2023 by holding that the Court was of the view that there was no overwhelming circumstances warranting cancellation of bail granted on 11.07.2023 and also that there was nothing on record that the parents of the deceased were the material witnesses.

6. It is stated by Mr. Raheja, learned counsel for the petitioner that in the present case, the child of the petitioner was killed by respondent No. 2 and hence it was a pre-meditated attack on the son of the petitioner. Hence, the FIR should have been registered under section 302 of IPC and not for the offence under section 304 of IPC.

7. Even though the above said observations may not be correct in law, the fact remains that in the present case, it was the respondent No. 2 and the son of the petitioner who fell in the nala in an inebriated state. Whether the same was on account of animosity of respondent No. 2 with the son of the petitioner can only be ascertained after the trial.

8. The other ground raised by Mr. Raheja, learned counsel for the petitioner is that respondent No. 2 is threatening the petitioner.

9. In response to the allegation of Mr. Raheja, learned APP on instructions of the IO states that on verification, the same has not been found to be correct. However, he assures that the concerned Beat Officer will ensure that the same does not happen.



10. In this view of the matter, I find no infirmity in the order dated 11.07.2023 and 06.12.2023 passed by the learned ASJ, Karkardooma Court.
11. The petition is disposed of.

JASMEET SINGH, J

NOVEMBER 29, 2024/DM

[Click here to check corrigendum, if any](#)