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

+ BAIL APPLN. 411/2024

DHAN KUMAR GURUNG

.....Petitioner

Through: Ms. Anu Narula, Adv. (Appearance
not given)

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP
Inspector Ichha Ram, PS Darya Ganj

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

27.11.2024

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1. This is a petition seeking grant of bail in F.I.R. 67/2016 dated 05.02.2016 under Section 302/201 of IPC registered at Police Station Darya Ganj.
2. As per the F.I. R, the petitioner is the husband of the deceased whose body was found in front of Subhash Park, along the wall of Tikona Park in a plastic bag (katta) on the track.
3. Thereafter, the investigation was carried out and the petitioner was arrested on 13.02.2016. The charge sheet under Section 302/201 was registered on 12.05.2016.
4. As per the Nominal Roll dated 28.03.2024, the petitioner has been in under-trial custody for a period of 5 years 5 months and 22 days and adding another period of about 9 months, the petitioner would have undergone more than 6 years of custody.
5. During the said period, the petitioner was released on bail on 06.06.2020 and 21.05.2021 as per HPC guidelines After 06.06.2020, the



petitioner duly surrendered in time but after 21.05.2021, the petitioner did not surrender and Non-Bailable Warrants had to be issued.

6. In the present case, the evidence against the petitioner is circumstantial being:- (i) The SIM card found pasted at the back of the deceased matched with the phone used by the petitioner and (ii) The manager and guard of the Dharamshala state that prior to the date of the incident, the petitioner along with the deceased checked in into the Dharamshala but it was only the petitioner who checked out from the Dharamshala, along with a katta. It is the same katta in which the body of the deceased was found.

7. I am of the view that the allegations against the petitioner are grave however the evidence is circumstantial. The evidence is yet to meet the test of judicial scrutiny and as an under-trial prisoner, the petitioner has already undergone custody for more than 6 years.

8. In trial, the Prosecution Evidence is still ongoing and out of 27 witnesses 23 witnesses have been examined. The Defence is yet to lead its evidence. It appears that there is no likelihood of a finding on the conviction or acquittal of the accused in the near future.

9. In view of the above facts and circumstances, it is directed that the applicant be released on bail on the following terms and conditions:-

- i. The applicant shall furnish a personal bond and a surety bond in the sum of Rs. 20,000/- each, to the satisfaction of the Jail Superintendent or the concerned Court;
- ii. The applicant shall appear before the Court as and when the matter is taken up for hearing;
- iii. The applicant shall provide his mobile number to the Investigating



Officer (IO) concerned, which shall be kept in working condition at all times. The applicant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of bail;

- iv. The applicant shall not leave the country during the bail period without permission from the competent Court and surrender his passport, if any, at the time of release before the I.O. concerned;
- v. The applicant shall not indulge in any criminal activity during the bail period;
- vi. The applicant shall not communicate with, or come into contact with any of the prosecution witnesses or tamper with the evidence of the case.

10. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present petition.

11. The petition is disposed of in the above terms.

JASMEET SINGH, J

NOVEMBER 27, 2024/sp