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

+ **BAIL APPLN. 566/2024**

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..... Applicant

Through: **Mr.Lokesh Nath Jha &
Mr.Kashish, Advs.**

versus

STATE (NCT OF DELHI)

..... Respondent

Through: **Mr.Aman Usman, APP.
Inps. Naveen Kumar, PS
Samaypur Badli**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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29.02.2024

1. This application has been filed by the Applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for being released on Bail in FIR No.420/2023 registered at Police Station: Samaipur Badli, Outer North District, Delhi under Sections 323/341/304/34 of the Indian Penal Code, 1860 (in short, 'IPC').

2. The above FIR has been registered on the basis of the statement made by the injured-Sh.Vinay @ Vicky that, on 30.04.2023, at about 8:15 PM, he had gone to *gali* near House No.C-101, Yadav Nagar, Delhi for parking his car, but the motorcycle of the Applicant was parked there. When he asked the Applicant to move the motorcycle, his uncle, namely, Sh.Vinod; co-accused, namely, Sh.Akshat @ Kaku; and, a few others started quarrelling with him and started beating him



with *danda/lathi*. When his father tried to intervene, they also quarrelled with him and due to the scuffle, his father fell down and lost consciousness. He was rushed to Dr.BSA Hospital, Rohini, Delhi, where he was declared as ‘brought dead’.

3. The learned counsel for the applicant submits that it was, in fact, the complainant, that is Sh.Vinay, who had started the quarrel, and took out the *danda/lathi* from his car and attacked the applicant and others. Upon seeing the altercation, the deceased came out of the house and tried to intervene. As the deceased was himself suffering from a heart ailment, as is reflected in his post-mortem examination report which *inter alia* states that his heart was enlarged and about 90% to 95% blockage was present in his left coronary artery and its arterial branches at places, the deceased suffered a sudden heart attack and died. He submits that, in fact, the Complainant himself has criminal antecedents, while the Applicant is aged around 22 years and is a student and he has no other criminal antecedents. He submits that the Applicant has been in custody for more than 7 months.

4. The learned APP submits that the Complainant has sustained injuries which were laceration (approx. 3 x 0.5 cm) over right ear and abrasion on arms and other places. He submits that the learned Trial Court has listed the trial for arguments on framing of charge on 11.03.2024. He submits that the opinion regarding the cause of death is still awaited. He further submits that the CCTV footage shows that the Applicant along with others was mercilessly beating the deceased.

5. I have considered the submissions made by the learned counsels for the parties and I have also perused the CCTV footage filed on



record.

6. It is apparent from the above that there was a scuffle at the spot, however, who initiated and who was the main perpetrator of that is yet to be determined in trial after appreciation of evidence. From the post-mortem report, it is also evident that the deceased was suffering from major heart ailments. Even as per the complaint of the Complainant, he suddenly fell unconscious while trying to intervene in the scuffle. The Applicant is stated to be a young boy of 22 years with no criminal antecedents. He has been in custody for more than seven months. The co-accused, namely, Sh.Akshat @ Kaku has already been released on Bail vide order dated 29.01.2024 of this Court passed in BAIL APPLN. 3870/2023 titled *Akshat@Kaku v. State NCT of Delhi*.

7. Accordingly, it is directed that the Applicant be released on bail in FIR no. 420/2023 registered at Police Station: Samaipur Badli, Outer North District, Delhi under Sections 323/341/304/34 of the IPC on furnishing a personal bond in the sum of Rs.25,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The Applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.



- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned. The mobile location be kept on at all times.
 - v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.
8. Needless to state, any observation touching upon the merits of the case is purely for the purposes of deciding the question of grant of Bail and shall not be construed as an expression on the merits of the matter.
9. The application is disposed of in the above terms.
10. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.
11. *Dasti.*

NAVIN CHAWLA, J

FEBRUARY 29, 2024/rv/AS

Click here to check corrigendum, if any