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

% *Reserved on : 18th October 2024*
Pronounced on : 24th December 2024

+ **BAIL APPLN. 922/2023, BAIL APPLN. 3633/2023 & BAIL APPLN. 3554/2023**

+ BAIL APPLN. 922/2023

PRINCE DIXIT @ VIKRAM

.....Applicant

Through: Mr. Pritish Sabharwal &
Mr. Sharad Pandey,
Advocate.

versus

STATE

.....Respondent

Through: Mr. Amit Ahlawat, APP for
State with Ms. Shehnaz
Khan, Advocate, Insp.
Lakhmi Chand and Insp.
Manuj Bhatia.

+ BAIL APPLN. 3554/2023

DAVINDER KAUR @ SONIA

..... Applicant

Through: Mr. Kanhaiya Singhal, Mr.
Ujwal Ghai, Mr. Prassana,
Mr. Ajay Kumar, Mr.
Aaditya Saraf, Mr. Chander
Sharma & Mr. Pulkit Jolly,
Advocates.

versus

STATE OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for
State with Ms. Shehnaz

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By: MANISH KUMAR
Signing Date: 24.12.2024
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BAIL APPLN. 922/2023 and connected matters

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Khan, Advocate, Insp.
Lakhmi Chand and Insp.
Manuj Bhatia.

+ BAIL APPLN. 3633/2023

DAVINDER KAUR @ SONIA

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Through: Mr. Kanhaiya Singhal, Mr.
Ujwal Ghai, Mr. Prassana,
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Manuj Bhatia.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. These bail applications have been filed seeking regular bail in the following FIRs:

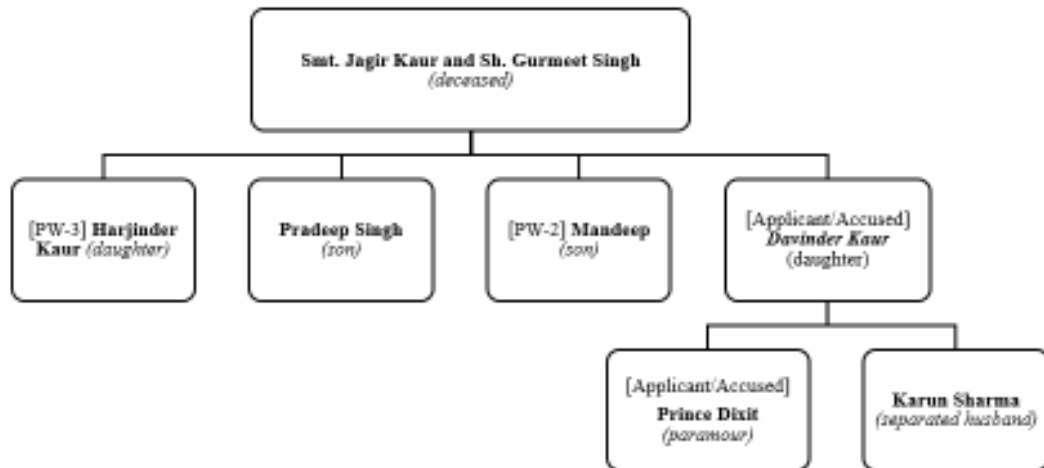
- i. FIR No. 108/2019 dated 08th March 2019 registered under Sections 302/201/380/411/120B/34 Indian Penal Code, 1860 (“IPC”) at Police Station (“PS”) Paschim Vihar (West).
- ii. FIR No. 109/2019 dated 09th March 2019 registered under Sections 302/201/120B/34 IPC at PS Paschim Vihar (West).



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2. For ease of reference, following family tree may be referred to in order to understand various persons involved in the present matters and the *inter se* relationships:



Investigation

3. As per the case of the prosecution, on 08th March 2019, a PCR call *vide* Diary No. 39-A was received at PS Paschim Vihar (West) informing about a dead body in waste drain near Village Sayyed Nangloi; police staff reached at the spot where dead body of a female was found in a bag/suitcase; body was inspected; and FIR 108/2019 was registered initially under Sections 302/201 IPC, pursuant to which investigation ensued.

4. On checking missing persons' records, the dead body was found to be of one Jagir Kaur, wife of Gurmeet Singh, resident of Nihal Vihar, Delhi whose missing report (*along with her husband's*) was filed 4 days prior i.e. on 04th March 2019 (*vide DD no. 30-A*) at PS Nihal Vihar. On further inspection of the drain, another dead body was found, that of a male, in a bag/suitcase. The second dead body was identified to be of



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Gurmeet Singh i.e. husband of the first deceased Jagir Kaur. Pursuant to the recovery of the second dead body, FIR 109/2019 was registered under Sections 302/201 IPC, which also triggered investigation.

5. During course of the investigation in these two FIRs, the daughter and son of the above said deceased persons namely Harjinder Kaur @ Anu and Mandeep Singh respectively were examined wherein they levelled allegations against their own sister Davinder Kaur @ Sonia and her paramour Prince Dixit @ Vikram (*applicants herein*) for murder of their parents. Harjinder Kaur @ Anu alleged that applicants had a quarrel with the deceased persons over property; that on 10th February 2019, Jagir Kaur had gone to Jalandhar, Punjab due to the demise of her father; and that Gurmeet Singh was not seen by her since 18th February 2019. On 02nd March, Jagir Kaur returned to Delhi and went missing the next day i.e. 03rd March 2019 when the missing report was filed.

6. Harjinder Kaur @ Anu further alleges that, on checking their house, two motorcycles, gold jewellery of their deceased mother, property papers of the house, mobile phones of the deceased father, bank documents, and IDs of deceased persons were missing/stolen from their house.

7. *Post mortem* of deceased persons opined that death was caused by asphyxia due to ante-mortem smothering in both cases. Investigating agency attempted to trace the applicants/accused persons, however, they were found to be absconding.

8. On 10th March 2019, applicants were arrested and as per the prosecution, disclosed that they were in a physical relationship and



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wanted to grab the property of her parents who weren't happy with their relationship. Thus, they had conspired to kill the parents of Davinder Kaur @ Sonia, for which they also roped in co-accused Raghvender Singh @ Rinku and one Diwakar on the pretext of giving Rs. 50,000/-. As per their plan, on 17th February 2019, applicant Davinder Kaur @ Sonia gave sleeping pills to the deceased Gurpreet Singh whereafter Raghvender Singh @ Rinku and Diwakar went into the house of the deceased persons, Raghvender sat on the chest of deceased and smothered him with a sofa cushion, Prince Dixit held his hands, and Diwakar held the legs, whereafter Gurmeet Singh succumbed. Thereafter, Prince Dixit told Diwakar to meet him at a petrol station; Prince Dixit, Davinder Kaur and Raghvender packed the dead body in a bag; and Prince Dixit and Raghvender dumped it in a waste drain. Diwakar stole one mobile phone, Raghevnder stole another phone, Prince Dixit stole the watch of Gurmeet Singh and Davinder gave Rs. 50,000/- to Raghvender, pursuant to which Raghvender and Diwakar went to Lucknow.

9. Some days later, it is alleged that Prince Dixit contacted Raghvender for also killing Jagir Kaur; Raghvender contacted Diwakar who refused to commit another murder; whereafter all accused person except Diwakar killed Jagir Kaur in a similar manner on 02nd March 2019 whereby Prince Dixit sat on the deceased's chest, Davinder held her legs and Raghvender smothered her with a sofa cushion; whereafter, Prince and Davinder dumped the dead body in the waste drain, and Davinder paid Raghvender another Rs. 50,000/- and one set of her mother's earrings.



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10. During police custody remand, Raghvender identified the house where the deceased were strangled to death as also the place where the dead bodies were dumped. On 14th March 2019, earrings of deceased Jagir Kaur and mobile phone of deceased Gurmeet Singh were recovered from Raghvender's house at Gomti Nagar, Lucknow, UP. Other articles of the deceased persons were also recovered from co-accused persons as follows:

- a. From Davinder Kaur @ Sonia: net fabric cloth used in smothering deceased, necklace, mobile, voter ID and Aadhar card of Jagir Kaur, and passport of Gurmeet Singh;
- b. From Prince Dixit: net fabric cloth to smother deceased. Discover motorcycle (*belonging to Gurmeet Singh*) with R/C, wristwatch of Gurmeet Singh, one Yamaha motorcycle belonging to son of deceased (*Pradeep Singh*);
- c. From Diwakar: mobile phone belonging to Gurmeet Singh

11. Recovered articles have been identified by witness Pradeep in the Test Identification Parade. Prince Dixit had also forged signatures of Pradeep Singh on the affidavit while selling the said motorcycle for Rs. 65,000/-; paid Rs. 45,000/- to Balwinder Singh and his son Satnam Singh in order to obtain documents of the deceased's house which have also been recovered.

12. On 02nd March 2019 at about 10:48 pm, on the route to the waste drain, applicants are seen on a motorcycle with a bag between them in a CCTV footage. Shopkeeper of the shop from where applicants bought the suitcase also identified the said bag.



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13. As per the CDR analysis of the accused persons, there were 67 calls within a span of 15 days between present applicants. As per disclosure statement of Raghvender, he had received money from the applicants.

14. On completion of investigation, chargesheet in FIR 108/2019 was filed under Sections 302/201/120B/34 IPC against the accused Prince Dixit @ Vikram, Davinder Kaur @ Sonia and Raghvender Singh and in FIR No. 109/2019 chargesheet was filed against Prince Dixit @ Vikram, Davinder Kaur @ Sonia, Raghvender Singh and Diwakar under Sections 302/201/380/411/120-B/34 IPC.

15. Charges were framed under Sections 302/392/201/34 IPC by ASJ, Tis Hazari Courts, Delhi in FIR No. 108/2019 against Prince Dixit @ Vikram, Davinder Kaur @ Sonia and Raghvender Singh and in FIR No. 109/2019 against Prince Dixit @ Vikram, Davinder Kaur @ Sonia, Raghvender Singh and Diwakar.

Submissions on behalf of Applicant Davinder Kaur @ Sonia

16. Mr. Kanhaiya Singhal, counsel for applicant Davinder Kaur @ Sonia addressed arguments in favour of grant of bail as under:

Prolonged Incarceration and Delay in Trial

17. It was submitted that applicant has been in custody since about 5 years; only 7 out of 39 witnesses in FIR 108/2019 and 7 out 44 witnesses in FIR 109/2019 have been examined. Thus, even after 5 years, about 70 witnesses are yet to be examined. In this regard, reliance was placed on



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the decision in *Union of India v. K.A. Najeeb*, (2021) 3 SCC 713 with respect to grant of bail to accused charged with serious offences.

18. Reliance was placed on *Zahur Haider Zaidi v. Central Bureau of Investigation*, (2019) 20 SCC 404 whereby bail was granted to the accused therein who was charged with *inter alia* Section 302 IPC, with 14 months of incarceration. Similarly, reliance was also placed on *Mukesh Kumar v. State of Rajasthan*, SLP (Crl.) No. 11714/2022 wherein the incarceration period of an accused with similar charges was 19 months.

Statutory Concession Under Section 437, CrPC

19. Applicant, being a woman, ought to be granted the benefit of concession as incorporated in the proviso to Section 437 Cr.P.C, which is reproduced as under:

“437. When bail may be taken in case of non-bailable offence –

...

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm.”

(emphasis added)

20. It was contended that the legislative mandate prescribed under Section 437 Cr.P.C. has to be seen which gives some concession to the woman and the same has been considered by the Apex Court as well as this Court. In a case of triple murder in *Mahendri vs State of Rajasthan*, SBCMBA No. 10968/2023, bail was granted merely on the ground that



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applicant was a woman. Similar view was taken by the Apex Court in ***Ramnivash vs State of Rajasthan***, 2024 SCC OnLine SC 89 and by the High Court of Karnataka in ***Nethra vs State of Karnataka***, Crl. P. No. 2306 of 2022.

Applicant has a Minor Daughter

21. Applicant has a four-year-old minor daughter, presently living with a distant relative as there is no one else except the applicant to look after her. Therefore, in the best interest and welfare of the minor daughter, bail is sought.

No Ocular/Direct Evidence

22. It is submitted that present case is based on only circumstantial evidence and there are no eyewitness accounts. Reliance is placed on ***Mohd. Khalid @ Altaf vs State NCT of Delhi, SLP(Crl.) No. 33/2024*** in which Hon'ble Court while considering period of custody and the fact that the case against the applicant therein is circumstantial in nature granted bail to the applicant therein.

Motive of Applicant not Established

23. As per the allegation averred by the prosecution, the motive for which the applicant herein has committed offence in question is that relationship between the Davinder Kaur @ Sonia and her parents Jagir Kaur and Gurmeet Singh were not cordial due to her relationship with Prince Dixit @ Vikram, and that both of them intended to grab the deceased's property, for which applicants threatened the deceased persons. All these allegations were levelled by siblings of the applicant



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namely PW-2 Mandeep Singh and PW-3 Harjinder Kaur. However, counsel for applicant submits that the said allegations have been demolished by the said witnesses itself during their cross-examination which are extracted as under:

PW-2 Mandeep Singh

“There was no objection on the part of my parents with regard to relations of my sister Davinder with Prince. It is correct that accused Prince used to take my parents for medical help as and when same was required.”

(emphasis added)

PW-3 Harjinder Kaur

“It is correct that my parents had accepted the relationship of my sister Davinder and accused Prince gradually.....It is correct that my both brothers also accepted the relationship of my sister Davinder and accused Prince gradually.”

(emphasis added)

24. Counsel for applicant categorically attempted to rebut allegations of ill intent of applicants towards moveable and immoveable properties of the deceased persons in the following manner:

24.1 Jewellery

As per the prosecution, Davinder Kaur @ Sonia after the death of her mother Jagir Kaur has mortgaged the jewellery and gold belongings with Muthoot Finance and took the loan of Rs. 39,000/-, however, it is contended that prosecution has not proved that said jewellery belonged to the deceased. With respect to ownership of the jewellery, reliance was



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placed on the testimony of PW-5 Sh. Ashok Kumar Sharma, Manager of Muthoot Finance, who has admitted that he has verified about the factum of ownership of said jewellery at the time of sanctioning of loan:

“I had sanctioned the gold loan on 23.02.2019. I had also done the necessary documentation at the time of sanctioning the gold loan. Point B on Mark PW-5/B shows the picture of the gold necklace which was pledged. It is correct that the said picture is not clear. We used to verify the ownership of the gold article at the time of pledging the gold loan. In this case, we have also verified the ownership of the gold which was pledged with us by Ms. Davinder Kaur@ Sonia.”

(emphasis added)

Thus, basis this testimony, it was also contended that Jagir Kaur was alive as on 23rd February 2024 and at Punjab when the said mortgage took place, and also that the jewellery belonged to the applicant Davinder herself.

24.2 Immoveable Property

As per prosecution, after the death of the deceased, both applicants visited the office of PW-7, Balwinder Singh @ Bittu on 06th March 2019 in order to get their house financed as the said house was not getting sold due to some existing disputes. It was contended that PW7 has not uttered a single word against the applicant/accused. On a leading question asked by the prosecutor, the witness averred that accused persons had come for sale of property, which is contrary to the disclosure statement which prosecution wishes to rely on. The testimony of PW7 suggests that no document was ever collected for produced by police and signifies that documents were handed over for removing shortcomings in the said



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documents. There is no recovery of amount of Rs.45,000/- either, allegedly paid by accused to Balwinder Singh. In fact, PW-7's testimony, reproduced as under, would show that he was forced to testify at behest of the police.

"Police officials took me to PS from my house. I do not remember the date but it was month of February, 2019. SHO came to my house alongwith 2-3 police official. It was around 12 noon approx. I was relieved from PS after four day. They gave beatings to me also. I did not file any complaint regarding the beatings to me."

(emphasis added)

CCTV Footage Non-Incriminating and Unreliable

25. The CCTV footage allegedly shows applicants taking luggage on a bike. However, it is submitted that neither of the applicants can be said to have been seen in the footage riding the motorcycle but merely one male and female member is being seen, as also no luggage is mentioned.

26. As regards the CCTV footage, testimony of PW4 Vikas Jain @ Vicky is relevant and is extracted as under:

"In the footage of 02.03.2019 at about 10:45 pm in the night, one male and one female were seen riding a motor cycle on the road leading to Paschim Vihar.

...

Court Observation: In the footage, at 0:05 seconds, one motor cycle with a lady as pillion rider along with a male rider is seen"



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27. No one has ever identified that the person on the scooter were the applicants, and only a male and a female member is seen with no utterance of any bag or luggage.

28. Furthermore, said CCTV was also not sent to FSL for forensic examination to compare the gait/face etc. of riders of that bike with the accused persons of this case for the simple reason that the faces are not visible, and gait is not ascertainable and therefore, the same is unreliable.

No Supporting Forensic Evidence

29. As per the prosecution, Alprax were given to both the deceased and thereafter they killed by putting pillows on the mouth of deceased persons. However, presence of Alprazolam was neither found in *post mortem* and viscera and even the place from where the said medicine was allegedly purchased was never identified and any witness for the same was also not examined.

30. It is further submitted that no fingerprint or chance print from the dead bodies or from the suitcase or from the place where the bodies were recovered, which shows the lack of proper investigation conducted by the police. Additionally, FSL report shows that there is absence of DNA of any applicant on the exhibits of deceased collected by the postmortem doctor.

No Last Seen as per Section 106, Indian Evidence Act

31. The allegation that deceased persons were living with the applicant Davinder is incorrect and it is submitted that the parents were



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living all alone. PW-2 and PW-3, and applicant Davinder were living separately.

32. It is further contended that parents were living alone, therefore, Section 106 Indian Evidence Act would not come into the picture and person who was sharing the accommodation with deceased, would therefore have to respond to explain the circumstances under which they were found.

33. As per the version of the prosecution the deceased parents were living with Davender Kaur but according to the applicant, the parents were living all alone. and testimony of PW2 and PW3 is relevant in that regard.

34. Applicant's counsel stressed on the fact that the whole case had been concocted by Harjinder Kaur, registered on 3rd March 2019. In the missing report it was mentioned that her parents were missing from last night only.

35. However, as per the prosecution and medical evidence, the death of the father Gurmeet Singh had taken place on 17th February 2019. During her cross-examination, she said that she had mentioned in her complaint that her father had not been seen since 14th February 2019 and her mother was missing for the last one or two days. She was, however, confronted with the earlier statement that she had made.

36. Most importantly, Harjinder Kaur stated that between the period of 14th February to 2nd March 2019, she and Mandeep used to talk to her father on telephone and did not lodge a complaint because the response used to be in her father's voice, which she was able to recognise. No call



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records have been produced by the prosecution in order to assess this aspect.

37. Testimony of PW9 Suresh Chand Malhotra, who was running the shop selling briefcases, suitcases, also did not support the case of the prosecution. He stated that *“the police officials asked me if accused Prince Dixit had purchased from me any attachee, to which I replied I did not remember if the accused had purchased the same from me.”*

Sale of the Motorcycle not proven

38. It is alleged that applicant Prince Dixit sold the motorcycle of deceased Gurmeet Singh to one Manish by using OLX website/application and sum of Rs. 14,500/- was paid on behalf of Manish by his brother-in-law Deepak Babbar and cash of Rs. 50,500/- was paid by Manish himself. It is submitted that, in any case, applicant Davinder is not linked to the said transaction, as also, no documents have been exhibited in support of the same.

39. As regards the sale of motorcycle of the deceased Gurmeet Singh, applicant's counsel stated that prosecution has not been able to connect Davinder Kaur with the alleged sale of motorcycle. Even otherwise, if the evidence is appreciated, it can be seen that there is no single document in respect of sale or transaction in question and no originals have been presented. Only some digital shots in evidence adduced by prosecution during trial cannot be considered as proved for lack of proper certificate under the Evidence Act. Moreover, there was no Form 29 or 30 which is a basic document for sale and purchase of any vehicle



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nor was anything signed between alleged buyer and seller. This is evident from the testimony of PW5 Manish and PW6 Deepak.

Suspicion with respect to Harjinder Kaur and Karun Sharma

40. It was vehemently argued that applicants herein are falsely implicated in the present FIRs. It was submitted that PW-2 Mandeep Singh admitted that Harjinder Kaur developed relationship with Karun Sharma, who was the estranged husband of Davinder Kaur @ Sonia and due to this, there were situations of conflict between her sister Harjinder Kaur and deceased parents. For the same, following portions of PW-2's testimony were adverted to:

“It is correct that my parents were not happy with the talking terms of Harjinder Kaur with Karun Sharma and they used to make understand Harjinder Kaur for not talking with him for the honour/dignity/ reputation of family. It is also correct that due to this reason, there were quarrels between my sister Harjinder Kaur and my parents.....I do not know as to where Harjinder Kaur started living. I came to know that Harjinder Kaur started living with Karun Sharma as quarrels started between her and my parents.....My unmarried sister Harjinder Kaur started living separately from my parents about 4-5 months ago of their death. I do not know as to where Harjinder Kaur started living. Harjinder Kaur was not working. My sister Harjinder Kaur was not residing with any other person except Karun Sharma.

On 24.08.2022, Harjinder Kaur accompanied me to the court and she told me as to what to depose .

It is correct that my parents started disliking Harjinder Kaur when she developed relationship



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with Karun Sharma .It is correct that Harjinder Kaur told me to depose against Devinder. It is correct that no quarrel took place between Devinder and my parents and it was Harjinder Kaur who told me to depose the same in the court. (vol. Harjinder Kaur is still threatening me that I would be caught by police id I will not depose as per her terms..... It is correct that my sister Harjinder has apprehension that she might be arrested in the present FIRs and therefore, she concocted story and lodge the false FIRs with the help of Karun Sharma . It is correct that my action are the result of threats and pressure imposed upon me by my sister Harjinder Kaur and Karun Sharma. (vol. Today, my sister Harjinder is not present in the court, therefore, I deposed corrects facts. Even today, I have apprehension that I would be threatened by her).

(emphasis added)

41. Counsel for applicant stated that the cross-examination of Harjinder Kaur reveals that she is still residing in the house of parents; and that the two of them had a bitter relationship with the deceased persons.

42. Another aspect adverted to by counsel for applicant was that intimation and recovery of bodies of the deceased was inconsistent which, in turn, raises suspicion against Karun Sharma. As per prosecution, investigation ensued on discovery of dead body of Jagir Kaur on 08th March 2019 and similarly another dead body, that of Gurmeet Kaur was found. It is contended by the counsel for applicant that it is not the case of prosecution that any information of finding the body of the deceased persons were received by any of the family members of deceased persons, however, cross examination of PW-3



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Harjinder Kaur raises suspicion towards Karun Sharma. It is the prosecution's case that body of Gurmeet Singh was found on 09th March 2019 on the information of police officials, and yet somehow, Karun Sharma was already aware of the location of the disposed of dead bodies. Relevant portions of PW-2's testimony are as under:

"For the first time, Karun Sharma informed me about the recovery of dead body of my father and mother at about 6 pm – 8pm on 08.03.2019. He informed my Mamaji and my Mamaji informed to me. It was about same time i.e 6pm-8pm. Later, I came to know that Karun Sharma along with his cousin brother were passing on his motor cycle from the place of recovery of dead body I came to know that according to police, the dead body of my father got recovered at around 2:00 am of 09.03.2019. I did not dial 100 number to inform the police about the information given by Karun Sharma to my mamaji which was further came into my knowledge through my mamaji"

(emphasis added)

Material Contradictions

43. The post-mortem report states that the death had happened 20 to 21 days prior to the examination which would place the date of death on 17th February 2019. There was, however, a statement made by Harjinder Kaur that she had spoken on the phone with her father whose voice she had identified. There was no CDR that was requisitioned for these conversations by the prosecution.

44. There was no scientific evidence to state that house was the place of incident. The recovery of the white sofa cover of the cushion allegedly used by the accused to strangle Jagir Kaur, was discovered



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on the basis of disclosure statements of applicants Davinder Kaur and Prince Dixit. Such joint recovery has no incriminating value since it was lying in an open space in the house. There is no forensic evidence carried out on the said sofa cover to relate them to the deceased.

45. PW8 W.Ct. Sonia also states in her testimony that she does not know if the house of the deceased was lying open or locked as the IO was ahead of her and opened the house; that she did not know if the IO was having keys of the house. She also stated that she did not remember any details relating to the seizure memo.

46. As regards the recovery from the house at Lucknow on 14th March 2019, it was contended that applicant never visited UP from 8th January 2019 to 10th March 2019, as per the CDRs relied upon by the prosecution. It was not possible that she kept the belongings of deceased Jagir Kaur at Lucknow house and, therefore, the recovery attributed to applicant is a planted one.

47. The pointing out of the place of incident was inadmissible in terms of Section 27 of the Indian Evidence Act since the police already had knowledge about the place of incident, having gotten the information regarding the dead bodies in the *nalah*.

Submissions on behalf of Applicant Prince Dixit

48. Mr. Pritish Sabharwal addressed arguments on behalf of applicant Prince Dixit in the following manner:

49. The *post mortem* report shows that the dead body was found with a greenish discoloration present all over the body combined by skin



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slippage due to exposure. Furthermore, it has also been stated that the body that was found was bloated and features of the body were distorted. This statement is further corroborated by the FIR whereby it has clearly been stated that; the body found was bloated and swollen. Counsel for applicant contended, in light of the dilapidation and the degradation of the bodies, that the bodies of the deceased were beyond the scope of identification.

50. It is submitted that the police ought to have matched the residual features of the face of the body recovered against a recent photograph of Gurmeet Singh to rule out any inconsistency. Instead, police assumed the identity of the dead body through the missing person's report on the ZIPNET.

51. There is no recovery attributed to the applicant and no evidence placed on record to tie the applicant to the alleged crime. The RC of a Discovery Motorcycle was recovered from the applicant, however, same was not placed on record.

52. As for the CDR analysis, it was contended that, on one hand, the prosecution alleged that the applicant was physically present on the scene and on the other hand the applicant is allegedly shown to be having a telephonic conversation with the other co-accused.

Submissions on behalf of State

53. Mr. Amit Ahlawat, Additional Public Prosecutor ("APP") for the State, at the outset, contended that the crime alleged is of grave and serious nature.



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54. Even though there is no ocular or direct evidence to implicate the applicants herein, there are several recoveries attributed to the applicants including the jewellery of Jagir Kaur, identified during TIP by Pradeep Singh. The location of the applicant Prince Dixit was on the same place of incident at the time of the crime. Numerous call data records between the accused persons have been noted during a short span of time as noted. Motorcycle of the deceased was stolen by applicants and sold for Rs. 65,000/- with online transaction of Rs. 14,500/- credited to the account of Davinder Kaur.

55. CCTV footage of near Nilothi extension route cameras when the body of the deceased was being disposed of shows Prince Dixit riding a motorcycle with Davinder as the pillion rider, carrying a bag in the middle. There is also a recovery of an RC of motorcycle and jewellery of deceased at the residence of the applicants. Necklace of the Jagir Kaur was identified during TIP by Pradeep Singh, on which a loan was taken from Muthoot Finance.

56. Recovery of moveable and immovable property from the applicants was adverted to as well as statement of Balvinder Singh under Section 161 CrPC whereby he correctly identified the applicants for correction of property documents.

57. APP for State submitted that the previous bail petition, being **BAIL APLN. 891/2023**, was withdrawn by the applicant Prince Dixit on 26th April 2023 and there was no new circumstance to allow the subsequent bail petition. The case is based on circumstantial evidence, which includes recovery of wristwatch of the deceased from applicant Prince Dixit, sale of the motorcycle of the deceased, sold to Manish, and



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the money having been received in the Davinder Kaur's account, the recovery of the fabric cloth used to strangle the deceased from Davinder Kaur, the CDR connectivity where Prince Dixit's location was found in the same place as that of the house of the deceased, identification of the place of incident by Raghvender and presence of the suitcase in the CCTV.

58. It was further contended that minor contradictions cannot exonerate the accused particularly at this stage. A mini trial is not possible at this stage. Reliance was placed on the case of *Mahipal v. Rajesh Kumar* (2020) 2 SCC 118. Moreover, Pradeep, the son of the deceased who had identified the dead body and the case property was to be examined in January 2025.

59. APP further stated that accused Davinder Kaur got separated from her estranged husband Karun Sharma in December 2017 and started living with her parents and Harjinder Kaur left the house and started living with her brother Mandeep Singh in a rented house. As per prosecution, deceased parents were annoyed with her due to her relationship and they had ill-intentions on the house. The papers were in the name of Gurmeet Singh and therefore, they got documents fabricated through Balwinder Singh. Karun Sharma was not examined as no relevant fact was connected with him.

60. In light of the same, bail for applicants was opposed.

Analysis of this Court

61. The Court has considered the submissions of the parties, i.e. the counsel for the applicants and APP for the State. At the outset, it is noted



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that the applicants have been in custody for about five and a half years. As per the Nominal Roll, applicant Prince Dixit was granted 30 days' interim bail in 2020 and there is no allegation that he threatened any witnesses.

62. All the material witnesses have been examined. The examination of the brother Pradeep, the son of the deceased, has been delayed consistently for a very long time. This is also noted in the Trial Court's order dated 9th October 2024 which was presented to this Court, stating that he will be visiting in the last week of December but since that was a long date, the Trial Court cannot be halted for such a long time.

63. Prosecution's case rests purely on circumstantial evidence. The bodies of both deceased husband and wife, were found in a waste drain (*nalah*) on 8th and 9th March 2019, on the information of a person. The bodies were clearly decomposed. The *post mortem* report pertaining to Jagir Kaur bearing No. 223/2019 dated 11th March 2019 stated that time since death as approximately 8 days. Similarly, *post mortem* report for deceased Gurmeet Singh bearing No. 224/2019 dated 11th March 2019 noted the time since death as approximately 3 weeks.

64. The applicants were arrested on the basis of the statement made by Harjinder Kaur, the daughter of the deceased and the sister of the Davinder Kaur. She had filed a complaint dated 3rd March 2019 stating that her parents were missing from the previous night, i.e. 2nd March 2019. She filed a missing person report dated 4th March 2019. Later in the examination, she stated that she had not met her father since 14th February 2019. Subsequently, in her testimony, she stated that she did not lodge any complaint between 14th February 2019 to 2nd March 2019



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since whenever she and her brother Mandeep used to call them, they used to hear the voice of their father from the other end, which she recognized. Therefore, even as per the statement of the complainant, the father would have been alive till 2nd March 2019, which does not *prima facie* corroborate with the *post mortem* report.

65. The statements and allegation of Harjinder Kaur towards the applicants have been brought to question, considering that there are circumstances, which as per the applicant, could have motivated her to implicate her sister Davinder Kaur falsely.

66. Testimony of PW2, Mandeep Singh, the brother of both Davinder Kaur and Harjinder Kaur, stated that the parents were not happy with the relationship between Harjinder Kaur and Karun Sharma, the estranged husband of Devinder Kaur. PW2, Mandeep Singh, in fact, states that due to this reason, there was a quarrel between Harjinder Kaur and the parents and he was not aware as to where Harjinder Kaur started living. He came to know that Harjinder Kaur had started living with Karun Sharma, as quarrels had started between her and the parents. While he states that he did not know where Harjinder Kaur was staying, the statement was made by Harjinder Kaur that she was staying with PW2. Testimony of PW2 is categorical since he states that he was threatened that he would be caught by the police if he did not depose as per the terms. He further stated that Harjinder Kaur had apprehension that she might be arrested in the present FIRs.

67. The complaint by Harjinder Kaur, therefore, against Davinder and Prince Dixit creates a potential doubt in the case of the prosecution. Moreover, considering that there was an allegation by PW2 that



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Harjinder Kaur had a relationship with Karun Sharma, the estranged husband of Davinder Kaur, the role of Karun Sharma also has to be assessed, who has not been arrayed as witness.

68. PW3 Harjinder Kaur herself admitted that she used to talk with Karun Sharma and discuss the case with him. She also stated that Davinder Kaur would not have given the custody of her children to Karun Sharma had she not been arrested in the present case. It has been noted that considering Davinder Kaur is in custody, her children are in care and custody of Karun Sharma's parents in Himachal Pradesh.

69. Also, Harjinder Kaur states in her testimony that Karun Sharma informed her about the recovery of the dead bodies of her father and mother between 6 pm to 8 pm on 8th March 2019. This testimony has been brought into question, since even as per the prosecution, the body of Jagir Kaur had been discovered on 8th March 2019 and the body of Gurmeet Singh was discovered only a day later. She states that she came to know that Karun Sharma was, along with the cousin brother, passing on his motorcycle from the place of recovery of the dead body. But she did not tell the police that Karun Sharma had told her 'mamaji' that he had come to know about the dead body.

70. How is it possible for Karun Sharma to possess this information even prior to the police receiving the said information and even prior to registration of DD No.4A, is a legitimate question posed by counsel for applicants. However, determination of the same is not a part of these bail applications and can be answered only post-trial.



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71. As per the case of the prosecution, the primary evidence on which the case is hinged is the recovery of jewellery from Muthoot Finance, allegedly mortgaged by the Davinder Kaur. The testimony of PW5, Ashok Kumar Sharma, Manager of Muthoot Finance, at least *prima facie*, does not assist the prosecution's case. In fact, he stated that he verified the ownership of the gold article at the time of pledging the loan, on 23rd February 2019. On that day, even as per the prosecution, Jagir Kaur was alive and was at Punjab when the mortgage took place. Further, there is no investigation relating to the ownership of the jewellery and that is an issue which will remain hanging in balance during the trial.

72. As for the attempt by applicants for sale of property belonging to the deceased through PW 7 Balwinder Singh, his testimony seems to suggest that he was forced by the police to give a statement in February 2019, but did not file any complaint. Applicants argue, that neither was any document regarding the property recovered from PW7 nor Rs.45,000/- allegedly paid by accused to him for fabricating property documents for the purpose of sale.

73. Reliance on the CCTV footage, on a *prima facie* assessment, does not fully assist the prosecution, as argued by the applicants. PW4's testimony only suggests that there was one male and one female person riding on a motorcycle on a road leading to Paschim Vihar. There is no assertion that there was any bag and also whether these persons were identified as applicants herein.

74. Furthermore, the Trial Court's observation during the testimony of PW-4 Vikas Jain @ Vicky (FIR 108/2019) is noted which states that



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there was a motorcycle with a lady as a pillion rider along with male driver. Applicant's counsel points out that this observation does not state that there was any suitcase along with them.

75. As regards the suitcase, PW9, the shopkeeper, Suresh Chand Malhotra (FIR 108/2019) stated that he did not remember if the accused had purchased it from him.

76. Besides, the applicants have contended that there is no fingerprint, no DNA analysis, or any other scientific evidence which connects them to the murders of both the parents.

77. The CDR location of Prince Dixit at the residence of the deceased also may not, in isolation, corroborate the case of the prosecution. The testimony of Harjinder Kaur also noted that Davinder Kaur was in a relationship with Prince Dixit and, therefore, it was argued that he might be visiting that place. In any event, as stated earlier, except for alleged disclosures, the date and location of the crime has not been identified. Moreover, there is no forensic evidence presented by the prosecution to buttress their case. The State has not brought forward any aspect of chance fingerprints or DNA with respect to any location or article seized. However, all this will need to be assessed post-trial.

78. The recovery of the white fabric sofa cover from the house of the applicant in Lucknow is, also shrouded in mystery since, as per the applicant relying on the CDR, Davinder Kaur was not in UP from 8th January 2019 to 10th March 2019. These are also disputed aspects of facts which will ultimately be filtered in the trial.



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79. It is imperative to take note of the fact that the Davinder Kaur's four-year minor daughter was born out of a relationship with Prince Dixit and is now living with a distant relative. It is also noted that the two children, which were born out of wedlock with Karun Sharma, are actually with the parents of the latter, her estranged husband, while Harjinder Kaur also stated that she would have never allowed the children to be with her estranged husband.

80. In any case, the extensive arguments advanced by counsel for parties were on the basis of the testimony and evidence recorded by the Trial Court thus far. It was contended by applicants' counsel that applicants' period of incarceration is more than 5 years, only 7 out of 39 witnesses in FIR 108/2019 and 7 out of 44 witnesses in FIR 109/2019 have been examined; and about 70 witnesses still remain to be examined.

81. The Supreme Court in *Javed Gulam Nabi Shaikh v. State of Maharashtra*, 2024 SCC OnLine SC 1693, observed as follows:

"18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.



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19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

(emphasis added)

82. In **Satender Kumar Antil v. CBI**, (2022) 10 SCC 51, Supreme Court reiterated the following stand regarding jurisprudence of bail:

“12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

83. More recently, the Supreme Court in **Praveen Rathore v. State of Rajasthan**, 2023 SCC OnLine SC 1268, while granting bail to an accused of murder, noted the importance of personal liberty and right to speedy trial, and observed as under:

“5. It is not in dispute that the petitioner, by now, has undergone more than four and a half years' of sentence. The prosecution intends to examine 76 witnesses, out of whom 53 have already deposed. All the crucial witnesses have already been examined. The instant case was adjourned on few occasions to enable the prosecution to examine Chauthmal Kashyap and Manohar Rathore, who



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were stated to be the vital witnesses. Their deposition is also complete.

6. We have heard learned counsel for the parties and carefully perused the material placed on record.

7. Taking into consideration the period already spent by the petitioner in custody coupled with the fact that conclusion of trial will take some reasonable time however, without expressing any views on the merits of the case, we are inclined to release him on bail.”

(emphasis added)

84. Recognising the right to speedy trial of persons accused of heinous offences like murder, the Supreme Court in ***Balwinder Singh v. State of Punjab & Anr.***, SLP (Crl.) 8523/2024, order dated 09th September 2024 noted as follows:

“5. In this case, 21 prosecution witnesses have already testified and it is submitted by the State’s counsel Mr. Siddhant Sharma that 17 more witnesses are proposed to be examined after dropping 9 of the earlier cited witnesses.

6. The High Court while rejecting bail had asked for conclusion of trial within 5 months. The 5 months period stipulated by the High Court will expire at the end of this month but as noticed earlier, the prosecution proposes to examine 17 more witnesses.

7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.



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...

10. Considering the above and to avoid the situation of the trial process itself being the punishment particularly when there is presumption of innocence under the Indian jurisprudence, we deem it appropriate to grant bail to the petitioner – Balwinder Singh. It is ordered accordingly. Appropriate bail conditions be imposed by the learned trial court.”

(emphasis added)

85. Nominal Roll of Prince Dixit may be adverted to whereby it states that he was granted interim bail in 2020, during which time, no allegation of threatening witnesses was made.

86. Though vehement arguments by counsel for all parties touched upon intricacies of the evidence recorded by the Trial Court so far, this Court is not intensely analysing these intricacies at this stage of bail. But it is noted that various pertinent contradictions have been pointed out by applicants’ counsel, which potentially sketch out a case for the applicants’ defence.

87. In any event, this Court is not expressing any view on the nuanced aspects and merits of this matter as same is the subject matter of the ongoing trial. However, having considered the period of incarceration and the fact that the trial is likely to take some time (70 witnesses left to be examined), as also that numerous issues which may create a reasonable doubt in the case of the prosecution have been presented by the applicants’ counsel, as adverted to above, the Court is of the opinion, that the applicants are entitled to bail.



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88. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the applicants behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the applicants. Consequently, the applicants are directed to be released on bail on each furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i.** Applicants will not leave the country without prior permission of the Court.
- ii.** Applicants shall provide permanent address to the Trial Court. The applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii.** Applicants shall appear before the Court as and when the matter is taken up for hearing.
- iv.** Applicants shall join investigation as and when called by the IO concerned.
- v.** Applicants shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi.** Applicants will mark their presence physically before the concerned I.O. every 1st and 3rd Thursday of every month between 4 - 5 p.m. and will be not kept waiting for more than an hour.



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vii. Applicants shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses or tamper with the evidence of the case.

89. Needless to state, but any observation touching 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 merits of the matter.

90. Copy of the judgement be sent to the concerned Jail Superintendent for information and necessary compliance.

91. Accordingly, the bail applications are disposed of. Pending applications (if any) are disposed of as infructuous.

92. Judgment be uploaded on the website of this Court.

**(ANISH DAYAL)
JUDGE**

DECEMBER 24, 2024/sm/sc