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

+ **BAIL APPLN. 805/2024**

MONU RAJPUT @ MONI

..... Petitioner

Through: **Mr. Darshan singh, Advocate**
(through VC).

versus

STATE (NCT OF DELHI)

..... Respondent

Through: **Mr. Hemant Mehla, APP for the**
State.

SI Naveen, PS Wazirabad.

SI Mandeep, PS Punjabi Bagh.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

23.04.2024

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1. The present application under Section 439 of the CrPC seeks regular bail in case FIR No. 199/2020, under Sections 304/34 of the IPC, registered at P.S. Punjabi Bagh.
2. As per the status report dated 16.04.2024, authored by Insp. Devendra Singh Oberoi, SHO, P.S. Punjabi Bagh, Delhi, the case of the prosecution is as under:-

“With due respect it is submitted that on 20/03/2020, from Acharya Bikshu Hospital, Moti Nagar, Delhi an information vide GD No-13A regarding MLC No-2865/2020 of Patient Gyan Singh S/o Himmat Singh R/o H-290, 2nd floor, Karampura, Moti Nagar, Delhi was received at PS Punjabi Bagh. The GD entry was marked to ASI Bijender, No-269/w for further necessary action. ASI Bijender, No-269/w reached at Acharya Bikshu Hospital, Moti Nagar, Delhi but injured Gyan Singh has already been referred to higher centre After that the said MLC information was marked to SI Naveen, PS Punjabi Bagh for further necessary action. SI Naveen found injured Gyan Singh under treatment in unconscious condition at Safderjung Hospital,



Delhi. The statement of injured Gyan Singh could not be recorded, therefore on the GD entry a case vide FIR No- 199/2020, Dated- 21/03/2020, U/s 308 IPC, PS Punjabi Bagh was registered and further investigation was conducted by SI Naveen. In the intervening night of 21/- 22/03/2020, injured Gyan Singh's brother namely Vishvender Singh and Devender Singh stated to SI Naveen Kumar that and Devender Singh stated to SI Naveen Kumar that Gyan Singh had gained sense for a while at hospital and he told them that he had been beaten by Chuchu, Yogi and Moni who are residents of Karampura, Delhi. Gyan Singh's colleague (security guard) Deepak also told that in the night Gyan Singh was roaming with Chuchu, Yogi and Moni. Thereafter on 22/03/2020 the petitioner Vikash Dogra @ Chuchu along with other co-accused persons Monu Rajput @ Mani S/o Dharambir, R/o D- 200, Ist floor, Karampura, Moti Nagar, Delhi and Yogender @ Yogi S/o Dharam Raj R/o H-39, Karampura, Moti Nagar, Delhi. All the three accused persons disclosed that in the intervening night of 19-20/03/2020 they were consuming alcohol in the alto car of Gyan Singh after some time they were left with no alcohol, therefore they started roaming in the car for the search of alcohol, but they could not avail alcohol. Thereafter they decided to go to Murthal, Haryana for dinner. On the way Gyan Singh poured vomit on petitioner, due to which all the three accused had altercation with Gyan Singh. Thereafter all the three accused persons thrashed Gyan Singh and left him near Pitampura underpass and went away with Gyan Singh's car and purse. Thereafter the petitioner and Monu Rajput admitted Gyan Singh to Acharya Bikshu Hospital by hiding their identity. The alto car No- DL-6CL-3497 used by Gyan Singh was Acharya Bikshu Hospital by hiding their identity. The alto car No- DL-6CL-3497 used by Gyan Singh was recovered on the instance of accused Vikash Dogra, Monu Rajput and Yogender @ Yogi. In the CCTV footage of emergency/casualty ward of Acharya Bikshu Hospital, the petitioner and accused Monu Rajput were recorded bringing Gyan Singh in hospital in alto car No- DL 6CL- 3497. After leaving Gyan Singh in hospital both petitioner and Monu Rajput went away leaving behind the above mentioned alto car. The accused persons were sent to JC. On 24/03/2020 Gyan Singh died during the treatment at Safderjung Hospital, subsequently the post mortem of deceased Gyan Singh was conducted vide PM No- 785/2020. The section 308 IPC was replaced with section 304IPC. The challan of the case has already been filed in the Honble court and case is pending trial in the court of Ms. Ambika Singh, LD. ASJ, Tis Hazari court. Charges u/s 304/34 IPC have been framed against the accused persons on 20/09/2022. The evidence of Anoop Singh Negi Devender Singh, Vishvender Singh, ASI Satish Kumar, No-



4168/DAP, Ashish Chopra, HC Harish, No-375/w, HC Rameshwar, No-1464/w, Rashid Khan, Sh. Deepak have been recorded. The case is pending trial.”

3. Learned counsel appearing on behalf of the applicant submits that the public witnesses who were cited by the prosecution in support of the last seen theory have since been examined and they have not supported the case of the prosecution. It is further submitted that the case of the prosecution with respect to the present applicant is similar to that of a co-accused i.e., Vikas Dogra @ Chuchu, who has already been granted bail by this Court on 01.02.2024 in BAIL APPLN. 1146/2023. In view of the same, it is submitted that the applicant may also be released on bail.
4. It is further pointed out that the applicant has been in custody since his arrest on 22.03.2020 and in the other case in which the present applicant is involved, he has already been enlarged on bail. It is submitted that the applicant was granted interim bail on earlier occasion on 09.06.2021 and on expiry of the same, he had duly surrendered without misusing the liberty granted to him. It is pointed out that the prosecution has cited 29 witnesses in the chargesheet, out of which only 11 witnesses have been examined so far.
5. *Per contra*, learned APP for the State submits that the present applicant, alongwith other co-accused persons had beaten the deceased and then got him admitted to Aacharya Bhikshu Hospital, Moti Nagar, Delhi. It is further stated that the brothers of the deceased have come on record to state that the deceased gained consciousness for a while and named the applicant and the other two accused as mentioned above, as persons who had beaten him.
6. Heard learned counsel for the parties and perused the record.



7. While disposing off the bail application of the co-accused, Vikas Dogra @ CHUCHU, this Court has observed as under:

“6. The public witnesses cited by the prosecution to bring on record the fact that the deceased was last seen in the company of the preset applicant with co-accused persons, have admittedly turned hostile. The veracity of the statements of the brothers of the deceased, as referred to hereinabove are a matter of trial. The fact that the other witnesses cited by the prosecution, to establish the presence of the applicant alongwith the deceased, have not supported the prosecution case cannot be ignored for the purpose of the present bail application. As per the nominal roll dated 18.05.2023, the applicant has been in judicial custody for a period of 2 years 3 months and 8 days. The nominal roll further reflects that the applicant was released on interim bail and had surrendered without misusing the liberty granted to him. As per the chargesheet, 29 witnesses have been cited by the prosecution and only 9 witnesses have been examined so far. Therefore, the trial is likely to take some time.”

8. The case of the prosecution with respect to the present applicant is same to that of the other co-accused person who has already been enlarged on bail by this Court. The public witnesses cited by the prosecution to bring on record the fact that the deceased was last seen in the company of the present applicant with co-accused persons, have admittedly turned hostile.

9. As per the nominal roll dated 20.04.2024, the applicant has been in judicial custody for a period of 2 years 2 months and 29 days and in other case in which the present applicant is involved, i.e., in FIR no. 407/2018, under Sections 323/341/34 of the IPC, PS: Moti Bagh; he has already been granted bail. The nominal roll further reflects that the applicant was released on interim bail on 09.06.2021 and he had duly surrendered without misusing the liberty granted to him. As per the chargesheet, 29 witnesses have been cited by the prosecution and only 11 witnesses have been examined so far. Therefore, the trial is likely to take some time.



10. In the totality of facts and circumstances of the present case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i) The applicant shall not leave India without prior permission of the learned Trial Court.
- ii) The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in 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 is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v) The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

11. The application is allowed and disposed of accordingly.

12. Pending applications, if any, also stand disposed of.

13. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.

14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

15. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

APRIL 23, 2024/

Click here to check corrigendum, if any