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

+ **CRL.M.C. 696/2021**

SHRI KAPIL D. SINGH

..... Petitioner

Through: Mr.Arvind Chaudhary, Mr.Ankit
Chaudhary and Mr.Sachin Chaudhary,
Advs.

versus

STATE & ANR.

..... Respondents

Through: Mr.Ajay Vikram Singh, APP for State
with Insp. Naresh Kumar, DIU/South.
Mr. Hem C. Vashisht and Mr. Ayush
Kaushik, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

11.03.2024

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1. An application under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for cancellation of bail granted to respondent no. 2 in FIR No. 0587/2019 under Sections 302/201IPC registered at P.S.: Mehrauli.

2. In brief, as per the case of the prosecution on 08.09.2019, a PCR call was received vide DD no. 45A at PS Mehrauli regarding murder and cremation of Shaila Singh by her husband on 04.09.2019. During inquiry petitioner who is the brother of deceased Shaila Singh, made allegations of murder of his sister by her husband Karamvir in order to take hold of her property. It was alleged by the petitioner that in the intervening night of 5/6.09.2019 at about 4:00 am body of the deceased was cremated in haste and



the family members were not informed intentionally. Accordingly, an FIR was registered on 07.10.2019 under Section 302/201 IPC at PS Mehrauli.

3. It is further the case of the prosecution that during investigation, respondent No.2 took a stand that in the intervening night of 5/6.09.2019, his wife informed him that she was not feeling well and thereafter, he called his nephew Krishan Singh, who was residing at his native place Mandi Village and asked him to reach at JVTs Garden. Since Krishan Singh was unable to reach, petitioner himself took his wife to Mandi Village in order to take his nephew Krishan and thereafter they left for hospital in Gurugram. In the meantime, Krishan received a call from his aunt Seema to get Shaila admitted at AIIMS, and as such they headed towards AIIMS. However, on the way Shaila Singh expired and thereafter the deceased was taken back to native village at Mandi, wherein her last ceremonies were performed.

4. Learned APP for the State submits that during inquiry CCTV footage of the residence of the deceased was collected and analysed and it was found that on 05.09.2019, till about 20-40 hours, petitioner alongwith his wife arrived in Building No. 47/1, JVTs Garden, Chhattarpur Extension, New Delhi in their car. Thereafter, the petitioner was seen in CCTV footage in the parking area and main entry area.

5. Learned counsel for the petitioner submits that the Trial Court wrongly granted bail to respondent no. 2, since the death of the deceased took place under suspicious circumstances and respondent No.2 instead of taking her to the nearest hospital, concocted the story of taking her to AIIMS. He further submits that the relations between the deceased and her husband were not cordial and further the body was cremated without informing the near relations. It is further submitted that during investigation, on the basis of



alleged disclosure of Karamvir Singh it was revealed that respondent no. 2 was in close association with another lady.

It is also submitted that as per the status report filed by the prosecution, respondent no. 2 was jobless and dependent on his wife and was in need of money in order to repay the loans. An attempt is also stated to have been made by respondent no. 2 to dispose of the flat of deceased after her death. It is also urged that the investigating agency was required to further conduct the Narco test of respondent No.2 to reveal the truth.

6. On the other hand, the application is vehemently opposed by learned counsel for respondent no. 2 and it is submitted that the respondent no. 2 and deceased were married for more than 17 years. It is urged that during the lifetime of deceased, no single complaint filed was by her against him. It is pointed out that the relations between the petitioner, who is brother-in-law of respondent no. 2 as well as his wife were not cordial and FIR stood registered between the parties. Respondent no. 2 alongwith deceased are stated to have been acquitted in the proceedings which were lodged on behalf of petitioner. It is also submitted that the present FIR has been lodged as there was dispute over property between petitioner and deceased Shaila Singh. Civil proceedings for partition are also stated to have been filed before High Court, which were ultimately compromised/settled between the parties. It is contended that no incriminating evidence has come on record against the respondent no. 2 to presume that the deceased was murdered.

7. I have given considered thought to the contentions raised.

Admittedly, at the time the investigation, the body of the deceased had already been cremated. As such there is nothing on record by way of post-mortem report or forensic analysis. The matter rests only on



circumstantial evidence and disclosure statements.

Learned APP for the State has pointed out that nothing adverse could be concluded in the Polygraph test of respondent No.2. Respondent no. 2 has already joined the investigation and is stated to be on bail vide order dated 14.01.2021.

Considering the totality of facts and circumstances, no grounds are made out for cancellation of bail granted to respondent no. 2. The application is accordingly, dismissed.

Investigating agency is directed to ensure that final report is filed within a period of eight weeks, since the FIR relates to the year 2019. Respondent no. 2 is also directed to join the investigation as and when directed by the IO.

Nothing stated herein shall tantamount on the expression of opinion on the merits of the case since the matter is still under investigation.

ANOOP KUMAR MENDIRATTA, J.

MARCH 11, 2024/akc