



\$~14

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

+ **BAIL APPLN. 1146/2023**

VIKAS DOGRA @ CHUCHU

..... Petitioner

Through: Mr. Amit Chadha, Mr. Ravinder
Kumar, Mr. Sanjog Singh A. And
Ms. Smriti Shrivastava, Advocates.

versus

STATE THROUGH P.S PUNJABI BAGH

..... Respondent

Through: Mr. Mukesh Kumar, APP for the
State.
SI Jarnail Singh, PS Pubjabi Bagh.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **01.02.2024**

1. The present application under Section 439 of the Cr.P.C. 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 23.01.2024, 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 have not supported the case of the prosecution. It is pointed out that the other two witnesses, i.e, the brothers of the deceased have testified to the effect that during the course of his admission in the hospital, the deceased became conscious for a while and named the present applicant, i.e., Vikas Dogra @ Chuchu and two other co-accused persons namely Monu Rajput @ Moni and Yoginder @ Yogi. It is submitted that the said testimony of the brothers of the deceased is in the nature of the hearsay. It is pointed out that the CCTV footage, as reflected in the status report, has not been put to any other witnesses to identify the present applicant and the other co-accused persons so far. It is further pointed that the applicant has been in custody since his arrest on 22.03.2020. It is submitted that the applicant was granted interim bail and on expiry of the same, he duly surrendered without misusing the liberty granted to him. It is pointed that the prosecution has cited 29 witnesses in the chargesheet, out of which only 9 witnesses have been examined so far. Learned counsel for the applicant further submits that the previous cases in which the present applicant has been involved have since been concluded. He was discharged in one case, acquitted in the second and the third was compounded and disposed of. It is therefore pointed out that at present, there are no cases pending against the applicant.

4. *Per contra*, learned APP for the State submits that the present



applicant, alongwith 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 became conscious for a while and named the applicant and the other two accused as mentioned above, as persons who had beaten him.

5. Heard learned counsel for the parties and perused the record.

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.

7. 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.

8. The application is allowed and disposed of accordingly.

9. Pending application, if any, also stand disposed of.

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

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

12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 01, 2024/sn