



2024:DHC:3253



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

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Date of Decision: 25th April, 2024

+ **BAIL APPLN. 904/2024 & CRL.M.A. 7843/2024**

PUNEET AGARAWAL

..... Applicant

Through: Mr. Ramesh Gupta, Senior Advocate with Ms. M. Begum, Mr. Shailendra Singh, Mr. Ishaan Jain and A. Choudhary, Advs.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP for the State with Mr. Himanshu Jain, Adv. with SI Sunny, PS Kotwali.

+ **BAIL APPLN. 908/2024 & CRL.M.A. 7893/2024**

VINIT AGARAWAL

..... Applicant

Through: Mr. Ramesh Gupta, Senior Advocate with Ms. M. Begum, Mr. Shailendra Singh, Mr. Ishaan Jain and A. Choudhary, Advs.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP for the State with Mr. Himanshu Jain, Adv. with SI Sunny, PS

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By: HARMINDER KAUR
Signing Date: 25.04.2024
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Kotwali.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present applications are filed under Section 439 read with Section 482 of the Code of the Criminal Procedure, 1973 ('CrPC') seeking regular bail in FIR No. 53/2000, dated 29.01.2000, registered at Police Station Kotwali, for offences under Sections 365A/341/324/323/506 of the Indian Penal Code, 1860.
2. A reply has been filed by the State.
3. It is not disputed that the victim has already expired and no statement under Section 299 of the CrPC was ever recorded. Section 299 of the CrPC reads as under:

"299. Record of evidence in absence of accused.—

(1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try [, or commit for trial] such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with



death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.”

4. Section 299 of the CrPC provides for recording of evidence in the absence of accused when the accused person is absconding which can be read against the accused.
5. In the present case, it is alleged that the applicants / accused persons had absconded during the proceedings before the learned Trial Court.
6. In the present case, the evidence of the victim was not recorded at any stage. The sole public eye witness, namely, Ram Gopal, who was the owner of the shop where the victim was employed, is also stated to be not traceable.
7. The FIR was registered way back in the year 2000. The likelihood of the applicants being convicted in such circumstances is bleak.
8. Insofar as the proceedings in relation to Section 82 of the CrPC are concerned, it is not disputed that no further action is required to be taken against the applicants.
9. The learned senior counsel for the applicants submits that the applicants, namely, Puneet Agarawal and Vinit Agarawal, are the permanent residents of Gurgaon and Delhi respectively.



10. He submits that the applicants, namely, Puneet Agarawal and Vinit Agarawal, at the time of the alleged incident, were aged 24 years and 26 years, respectively. The applicants have since been married and have deep roots in the society.

11. He submits that the applicants are not a flight risk.

12. In view of the above, without commenting on the merits of the case, the applicants are directed to be released on bail on furnishing a personal bond of ₹50,000/- with one surety of the like amount respectively, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicants shall under no circumstance leave the the country without taking permission from the concerned Trial Court;
- c. The applicants shall appear before the learned Trial Court as and when directed;
- d. The applicants shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicants shall, upon their release, give their mobile number to the concerned IO/SHO and shall keep their mobile phone switched on at all times.



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13. In the event of there being any FIR/ DD entry/ complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

14. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

15. The bail applications are allowed in the aforementioned terms.

16. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 25, 2024

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