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

+ **BAIL APPLN. 1032/2024**

RAHUL@SONU

..... Applicant

Through: Mr. Pradeep Rana, Mr.
Kartik Gadi, Mr. Tushar
Rehmotra, Mr. Abhishek
Rana, Mr. Jassimran Deep,
Mr. Deepak Chhillar &
Mr. Gagan Bhatnagar,
Advocates.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State along
with Mr. Ramesh Kumar
& Ms. Archana Saxena,
Advocates.
Insp Prakash Roy (IO), PS
Shakarpur.
Insp. Vipin Yadav, SHO,
(P.S. Karawal Nagar).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
09.05.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 (CrPC) for grant of regular bail in FIR No. 226/2021 dated 20.05.2021 under Sections 302/392/201 of the Indian Penal Code, 1860 registered at Police Station Karawal Nagar.

2. The present is a second bail application before this Court.

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3. This Court by order dated 06.10.2023 had dismissed the application filed by the applicant under Section 439 of the CrPC.

4. The learned counsel for the applicant submits that pursuant to the order passed by this Court dismissing the bail application filed by the applicant, most of the witnesses have been examined and only last public witness remains to be examined. He submits that every day of incarceration gives right to the accused to file an application seeking bail. He further submits that after the dismissal of the application by this Court, the owner of the motorcycle on which the applicant was alleged to have been seen has also been examined and has stated that the applicant was not riding on the said motorcycle.

5. This Court by order dated 06.10.2023 had dismissed the application filed by the applicant seeking bail on merits. This Court noted that there is no plausible reason nor any specific denial of the applicant for being present at the alleged place at the relevant date and time of incident. It was also noted that mobile phone and stolen jewellery was recovered from the house of the applicant at his own instance. This Court also took note of the FSL report which confirms that shoe (*jooti*) worn by the person seen in the CCTV footages fits the shape and size of the applicant.

6. When the bail application filed by the applicant has been dismissed on merits, this Court cannot review the said order and reappreciate the evidence.

7. It is not in doubt that every day in custody may be a ground for seeking release on bail in case the trial is delayed. The bail application filed by the applicant on earlier an occasion was dismissed in the month of October, 2023. Since then, most of the



public witnesses have been examined and only one public witness remains. It cannot be said that there has been inordinate delay in the trial.

8. If the argument advanced by the learned counsel for the applicant is accepted, then multiple applications seeking bail would be filed by the under trail accused persons every time after one witness is examined. The Court cannot lose the sight of the fact that the applicant is alleged to be involved in double murder case attracting major punishment of death if convicted.

9. Though the applicant has the right to file successive bail applications, the same can only be entertained in light of material change in circumstances.

10. The Hon'ble Apex Court in the case of ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528*** had observed as under:

"20. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications."

11. It has been held in a catena of judgments that there must be change in circumstances to warrant fresh consideration of the bail application. The successive bail applications filed without there being any material change in circumstances, is strongly discouraged, and is a gross abuse of the process of law.

12. In view of the above, the present bail application is dismissed.

13. This Court, however, gives liberty to the applicant to file



an application afresh if the trial does not conclude within a period of next eight months.

AMIT MAHAJAN, J

MAY 9, 2024/SK