



\$~15

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

+ **BAIL APPLN. 1016/2024**

GEETA

..... Petitioner

Through: Mr. Amjad Khan, Mr. Sumit Kumar
and Mr. Vikas Tomar, Advocates.

versus

STATE

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Insp. Jitender Rana, PS Civil Lines.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

15.05.2024

%

1. The present application under Section 439 read with section 482 of the Cr.P.C seeks regular bail in case FIR No. 176/2019, under Sections 302/308/325/323/149 of IPC, registered at P.S. Civil Lines, Delhi.
2. The case of the prosecution as per the status report dated 13.05.2024 is as under:-

“Most Respectfully it is submitted that on 23/10/2019, at about 11:00 PM, a PCR call vide DD No.42A was received at Police Station Civil Lines that one lady has been assaulted with sword at K block, Majnu Ka Tila, Barat Ghar. Aruna Nagar. Thereafter, it came to notice that the injured persons have been shifted to Sushruta Trauma Centre Hospital. Injured Smt. Somwati w/o Ram Chander r/o N-68/588, Majnu Ka Tila, Aged 46 yrs and her sons namely Dharam Singh 27 yrs and Karan 22 yrs were found under treatment there. After that, statement of the complainant Smt. Somvati was recorded, who stated that on 23/10/2019 during day time an argument took place between her sons Karan & Dharam and her neighbor Mahesh over the issue of Choley Kulchey rehari at near GTB Nagar Metro Station. Later on, in evening, at about 10:30 PM the accused Mahesh alongwith Amarpal (relative of Mahesh), his mother Geeta, Imran (present applicant) and Kunal assaulted the complainant and her sons with sword and stick. She further alleged that accused Geeta caught hold her and Amarpal assaulted on her head with



sword. It has been further alleged that Mahesh assaulted the complainant and her sons with stick/danda and other accused persons help them in assaulting her and her sons.

Accordingly, the case vide FIR No. 176/2019, Dated 24/10/2019 registered initially under section 307/323/34 IPC. Then Somvati, the complainant succumbed to her injuries during her treatment on 04/11/2019 at Lok Nayak Hospital, and section 302 IPC was added in the case. Post Mortem of the deceased Somvati was got conducted at M.A.M.C Mortuary. Autopsy Surgeon opined the cause of death as follows **"Cause of death in this case is due to cranio cerebral injury, consequent upon heavy and sharp force trauma to static head and are possible in physical assault. All injuries are ante mortem in nature and are 10-12 days old in duration,"**

During investigation, blood stained weapon of offence i.e. the sword was got recovered at the instance of accused Amarpal from his house. The exhibits were duly collected in the case and got examined from FSL, Rohini, New-Delhi. The final opinion about MILC of injured Dharam Singh was opined as "GRIEVOUS". Injured Dharam Singh remained admitted in the hospital for 04(four) days. He had been assaulted with danda on his head. Accordingly, section 308/325 IPC were also added in the case. No opinion has been given by the doctor on the MLC of injured Karan as, he left the hospital without treatment but MLC depict his injury at Occipital region CLW 3x0.5x0.2cm

It is further submitted that all the five accused persons fled away after the incident on 23/10/2019 and further on 24/05/2019 in evening accused persons Amarpal, Mahesh and Imran were arrested and accused Geeta was arrested on next day ie. 25/10/2019. Accused Kunal who was absconding was also arrested on 04/11/2019. After completion of the investigation the Charge sheet u/s 302/308/325/323/149 IPC against all the five accused persons was filed on 20/01/2020.

SPECIFIC ALLEGATIONS/EVIDENCES AGAINST THE ACCUSED GEETA ARE AS UNDER:

" Injured Smt. Somvati (now deceased) categorically levelled allegations in her statement upon which present FIR was registered. Later, she died during treatment. She stated that accused Geeta caught hold her and Amarpal assaulted on her head with sword.



During the testimony, victim Karan Singh has supported the prosecution case. He categorically mentioned that *"Accused Amar Pal was having sword in his hand and he hit the sword on the head of my mother. Accused Geeta (petitioner) and accused Mahesh had caught hold my mother at that time when the accused had hit the sword on the head of my mother"*.

During the testimony, other victim/ witnesses i.e. Dharam Singh has supported the prosecution case. He categorically mentioned that In the meantime, Amar Pal went inside his house and brought sword in his hand and hit the same on the *head of my mother Somwati. At that time, all the above said 4 accused persons had apprehended my mother while accused Ammar Pal hit the sword on the head of my mother"*.

It is worth mentioning here that role of accused Geeta is equally serious in nature with the other co-accused persons as she caught hold the complainant and Amarpal assaulted on her head with sword which resulted her death later. Especially mentioned by injured Somwati (now deceased).

It is worth mentioning here that witnesses are recalled by the Hon'ble Court for further examination after the arrest of accused Amar Pal who was earlier declared proclaimed offender."

3. Learned counsel appearing on behalf of the applicant submits that the role of the present applicant as per the case of the prosecution is similar to co-accused persons, namely, Imran and Kunal, who have been granted bail by this Court in BAIL APPLN. 2535/2022 and BAIL APPLN. 3042/2023 respectively *vide* order dated 16.08.2023 and 12.03.2024. It is further submitted that the applicant has been in custody since 24.10.2019 and was given benefit of interim bail and without misusing the liberty granted to her, she duly surrendered on time. It is further submitted that out of 23 witnesses, 17 witnesses including public witnesses have been examined and the matter is now fixed for prosecution evidence with respect to co-accused Amarpal,



who have now been arrested after being declared proclaimed offender. It is finally submitted that in these circumstances, the trial is likely to take a long time.

4. Per contra, learned APP for the State submits that the role of the applicant is different inasmuch as she is the mother of the accused Amar Pal and the other co-accused persons, Imran and Kunal, were friends who had come later at the spot.

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

6. In the status report mentioned hereinabove, it has been stated that in the testimony of victim, Dharam Singh, it has come on record that accused Amar Pal went inside his house and brought sword in his hand and hit the same on the head of his mother and at that time the other 04 co-accused persons had apprehended his mother while accused Amar Pal hit the sword on the head of his mother.

7. As pointed out herein above, the aforesaid co-accused persons, namely, Imran and Kunal have already granted bail. As per nominal roll, the present applicant was arrested on 24.10.2019 as on 08.05.2024, she has undergone judicial incarceration of 04 years, 06 months and 10 days. The applicant had been released on interim bail on previous occasion and without misusing the liberty granted to her, she duly surrendered on time. It is pointed out that main witnesses including the eye witness have already examined *qua* the present applicant and the witnesses are being re-examined with respect to co-accused Amar Pal, who has now been arrested.

8. In totality of the facts and circumstances, the present application is allowed. The present applicant is directed to be released on bail on her furnishing a personal bond of Rs.20,000/- with one surety of like amount



subject to the satisfaction of learned Trial Court, further subject to the following conditions:

- i) The applicant shall under no circumstances leave India without prior permission of the concerned Court;
- ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- iii) The applicant shall provide her mobile number(s) to the Investigating Officer and keep it operational at all times;
- iv) In case of change of residential address and/or mobile number, the applicant shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.

9. The application is allowed and disposed of accordingly.

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

11. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.

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

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

AMIT SHARMA, J

MAY 15, 2024/bsr

Click here to check corrigendum, if any