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

+ **BAIL APPLN. 1106/2024**

ZEESHAN RAI

.....Petitioner

Through: Mr. Saquib Najam Qureshi, Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP for State with
Mr. Sahil Arora, Mr. Vishwajeet Singh, Ms. Ritu
Kapoor Arora, Mr. Vijay Pratap Singh,
Ms. Priyanka Mishra, Advocates with SI Anugraha

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.08.2024

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1. By way of the present application, the petitioner/applicant seeks regular bail in FIR No.92/2016 registered under Sections 302/201/364A /363/404/120B IPC at P.S. Welcome.

2. Learned counsel for the applicant submits that the present case is based on circumstantial evidence and that the applicant has been in custody since 03.04.2016. He submits that the prosecution has cited 63 witnesses and till date, only 18 witnesses have been examined, however, all the material witnesses have been examined. He further submits that the applicant is not involved in any other case and that at the time of commission of offence, the applicant was 21 years of age.

On merits, it is stated that the alleged recoveries shown at the instance of the present applicant were affected after a period of two months of the



incident. Initially, a missing report was lodged on 12.02.2016 by the father of the deceased. On 23.03.2016 i.e., after nearly 5 weeks, an information was received from Badalpur, U.P. about matching of a dead body similar to the present deceased whereafter, the investigation began and the applicant was apprehended. Even the allegation of ransom call attributed to the applicant is also doubtful in view of the FSL Report. During investigation the recorded voice as well as the applicant's voice sample were sent to FSL. As per the report received from FSL, it has been opined that it could be the '*probable voice of same person i.e., Zeeshan*'.

3. Learned APP for the State has opposed the bail application. He submits that in the present case, the deceased child was known to one JCL 'O' who in turn, was a friend of the present applicant. Initially a missing report was lodged at the instance of the father of the deceased child whereafter, on examining the CDRs, it was found that JCL 'O' was in constant touch with the present applicant. The father of the child victim had also recorded the ransom call which alongwith the voice sample of the present applicant, was sent for voice matching and the FSL Report in this regard has been received. It is also submitted that the prosecution has examined one *Ravi Karan Solanki*, the shopkeeper from whom the accused had purchased gunny bags for disposing the body. Clothes and the locket of the deceased were also seized at the instance of the applicant, which were also identified by his father. The car used in the kidnapping as well as for disposing of the dead body was seized and examined and the soil on the tyres of the car also matched with the mud sample of the spot from where the body of the deceased was recovered. The soil also matched with the shoes of the present applicant and JCL 'O'. Learned APP, on instructions,



confirms that the applicant is not involved in any other case and that all the material witnesses have been examined.

4. I have heard learned counsel for the applicant as well as learned APP for the State and also gone through the material placed on record. The material collected during the investigation is entirely circumstantial in the form of recoveries. The prosecution has examined one *Nizam* to connect the applicant with the purchase of the mobile phone, however, he in his testimony has failed to support the prosecution case.

5. Keeping in view the aforesaid facts and circumstances and considering that the entire material cited against the present applicant is circumstantial in nature and even otherwise, the material witnesses having been examined and further considering the period of custody as well as the fact that the trial is likely to take some time as only 18 out of 63 witnesses cited have been examined, it is directed that the applicant be released on regular bail, subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty Judicial Magistrate, First Class and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.



- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
6. The bail application is disposed of in the above terms.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

AUGUST 8, 2024

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