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

+ **BAIL APPLN. 1124/2024**

ANKIT DAGAR

.....Petitioner

Through: Mr.J.P.Singh, Mr.Vikrant Singh,
Mr.Upender Yadav and Mr.Hemant
Sharma, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the
State with Inspt. Ravi Prakash Meena,
PS Jaffarpur Kallan and Inspt.
Dharamveer, Supreme Court Security.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

27.09.2024

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1. The present petition has been filed for grant of regular bail in case FIR No. 195/2017, under Sections 307/34 IPC, R/W 25/27/ Arms ACT, P.S. Jaffarpur Kalan, Delhi. Subsequently, the chargesheet was filed and Sections 302/174/120B IPC were added.

2. Briefly stated the facts as culled out from the status report is that on 25.10.2017, an information vide DD No 32A was received in police station pursuant to which SI Manmohan Yadav reached at RTRM Hospital and was informed that one Sachin Lakra (deceased) had come for treatment and was referred to the higher centre. Sachin Lakra was found unfit for the statement and the father of injured, Sh. Hansraj (PW-2) stated that on 25.08.2018, at about 08:30 PM, he was working in his fields where he saw that Naresh



Pandit, his son Vikash@ Monu and his nephew Anil @ Ajay, all residents of Malikpur village came in a Maruti Ritz car under the influence of alcohol and started abusing and shouting on each other. In the meanwhile, Chap Singh, Jatin and Nakul all residents of Malikpur village reached there in another White ETIOS car and started quarrelling with Naresh Pandit and his son. Meanwhile the petitioner, Ankit @Khotiya, came on his scooty. Son of Hansraj, Sachin (deceased) also came on his bike there and both of them tried to calm down both the parties. It was stated that Sachin was convincing Naresh Pandit and Chap Singh and requesting them not to quarrel. Thereafter Anil Ajay. Ankit@ Kotiya, Naresh and Vikash @Monu overpowered Sachin and Anil@ Ajay and Ankit @ Khotia caught hold Sachin and pushed him to the ground. It was further alleged that Anil @ Ajay caught the hands and Ankit @ Khotia caught the legs of Sachin and Naresh and Vikash @ Monu opened fire on Sachin and they fled away from the spot. Sachin sustained gunshot injuries over the head and chest and succumbed to the injuries on 26.10.2017.

3. Learned counsel for the petitioner submits that the petitioner is in custody for the last more than five years. It has been submitted that the independent witnesses Chap Singh, PW 7, Nakul, PW-8, and Amit Dagar PW-9 have not supported the case of the prosecution. Learned counsel submits that the PW-2, Hansraj, who is the father of the deceased has partially supported the case of the prosecution. Learned counsel for the petitioner also submits that keeping in view the period of incarceration, the petitioner may be admitted to bail.

4. Learned APP for the State has opposed the bail on the ground that the accused/petitioner along with co-accused persons had murdered Sachin in a



brutal manner. Learned APP submits that PW-2 has supported the case of the prosecution. It has further been submitted that the earlier bail application moved by the petitioner bearing Bail Application No. 176/2023 was dismissed as withdrawn on 07.11.2023 by this Court. It has also been submitted that the petitioner is also involved in FIR No.113/2014 under Sections 376/328/354-A/506 IPC PS Baba Haridas Nagar.

5. The parameters for grant of bail in the heinous offences cases are very well settled have been laid down by the Apex Court in various cases such as **Kalyan Chandra Sarkar v. Rajesh Ranjan** (2004) 7 SCC 528 and **Brij Nandan Jaiswal v. Munna** (2009) 1 SCC 678.

6. The court while granting bail should exercise its discretion in a judicious manner and not as a matter of course. Also, in serious offences the grant of bail must be exercised by caution and shall be well reasoned. The Court at the stage of bail cannot minutely appreciate the evidence of the prosecution witnesses. The appreciation of the evidence has to be left to the learned Trial Court. At the stage of the bail, the Court has to see the *prima facie* case. There is no doubt that the rule is bail and not the jail. However, in the heinous offences case, the Court has to see over all circumstances and the *prima facie* view of the testimony of the prosecution witnesses. The testimony of Hansraj PW-2 cannot be disbelieved merely because he happens to be the father of the deceased.

7. Moreover, the Supreme Court in **Ash Mohammad v. Shiv Raj Singh** (2012) 9 SCC 446, *inter alia* held that even though the period of custody is a relevant factor but a simultaneous consideration should be given to the circumstances, allegations and also the criminal antecedents. Therefore, it would be to suffice say that making further comment on the merits of the



case would prejudice the interest of the parties. There is criminal antecedent of the present petitioner. The earlier bail application was also dismissed as withdrawn by this Court.

8. Taking into account all the circumstances, the petitioner is not entitled to the grant of regular Bail. Hence, dismissed.

DINESH KUMAR SHARMA, J

SEPTEMBER 27, 2024

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