



2024:DHC:6300



\$~2

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 16th August, 2024+ BAIL APPLN. 1134/2024

DARSHAN DABAS

.....Petitioner

Through: Mr. Gaurav Sharma, Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Richa Dhawan, APP for the State
swith Insp. R.L. Meena and Inspector
Om Parkash, PS Najafgarh.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. The Bail Application under Section 439 of the Code of Criminal Procedure (*hereinafter referred to as 'Cr.PC, 1973'*) has been filed on behalf of the petitioner seeking Regular Bail during the pendency of the trial in SC No. 381/2019 pending before the Court of learned ASJ-01, Delhi in Case FIR No. 405/2018 for the offence under Section 302/364A/201/120B and 34 of the Indian Penal Code (*hereinafter referred to as 'IPC, 1860'*).
2. The case of the prosecution is that on 12.12.2018 at about 1:00 p.m, Mr. Praveen, the younger brother of the complainant, Mr. Vijay Pal, left the house saying that he was going to meet the accused Darshan Dabas at his Ghevra Village. Subsequently, when he called his brother at about 6:45 p.m he did not receive any response. He made a PCR call and searched for his



2024:DHC:6300



young brother. Later at around 12 midnight, when he reached near Nangli Industrial Area, he found a 'MARUTI RITZ Car No. DL9CAK 3001', grey colour parked at an isolated place and found the dead body of his brother lying on rocks. He had bullets in his head and his blood was splattered all over.

3. The Complainant called the Police and the FIR No. 405/2018 under Section 302 IPC read with Section 25/27 of Arms Act, was registered. During the investigations, the co-accused, Satish Kumar @ Shkati Dada was arrested on 27.12.2018 and on his disclosure, the petitioner has been arrested. The Charge-Sheet was filed in the Court, after completion of investigations. The Supplementary Charge-Sheet has also been filed.

4. The Charges have been framed and all material public witnesses have been examined, who have deposed nothing incriminating against the petitioner.

5. His earlier Bail Application was dismissed by the learned ASJ on 19.09.2024, without considering the grounds taken by the accused. He thereafter, filed the present Application seeking bail on the ground of long incarceration of about two years and seven months and that all public witnesses have already been examined. PW-7, Shubham (nephew of deceased Praveen Rathore), PW-6 Dharmender Mishra and PW-8, Vijay Pal, have failed to support the case of the prosecution in their respective testimony. PW-8 Vijay Pal, the complainant has made significant admissions which point to the innocence of the present petitioner.

6. The only evidence against the petitioner is the disclosure statement of the co-accused, who has been declared as a *Proclaimed Offender*, and his prior involvement in various criminal cases. As per the nominal roll, he has



2024:DHC:6300



been involved in 6 cases, which are as under:

- (i) *FIR No. 31/2022 under Section 54/59 of Arms Act, Police Station Crime Branch (on bail);*
- (ii) *FIR No.135/2022 under Section 307/34 of IPC and 27 Arms Act, Police Station Najafgarh (on bail);*
- (iii) *FIR No. 501/2021 under Section 302/34 of IPC and 25/27 Arms Act, Police Station Najafgarh (on bail);*
- (iv) *FIR No. 520/2018 under Section 323/336/174A/34 IPC, Police Station Kanjhawala (on bail);*
- (v) *FIR No. 329/2019 under Section 186/353/307/506 IPC & 25/27 Arms Act, Police Station Crime Branch (on bail);*
- (vi) *FIR No. 53/2015 under Section 147/148/149/427/452/506/34 IPC, Police Station Najafgarh (pending); and*
- (vii) *Conviction in FIR No. 638/2008 dated 29.08.2011 under Section 302/34 IPC and 25A of Arms Act, Police Station Najafgarh.*

7. It is submitted that he has already been admitted on bail in all the pending cases. Furthermore, involvement in other criminal cases, is not a relevant factor while considering the bail in the present application, as has been held in the case of Prabhakar Tewari vs. State of Uttar Pradesh and Another, (2020) 11 SCC 648. It is further submitted that inordinate delay in conclusion of the prosecution trial is being recognised as a stand alone ground for grant of bail for which reliance has been placed on Mumtaz vs. State (NCT of Delhi) & Anr., Bail Appln. 3165/2022.

8. The ***State has opposed the Bail*** on the ground that the very fact that



2024:DHC:6300



prosecution witnesses has failed to support the case of the prosecution, reveals that the petitioner has an undue influence because of which the witnesses have not been able to depose truthfully. It is further submitted that there was a previous dispute between the brother-in-law of the complainant and the present petitioner along with the other accused persons, who had hatched a conspiracy to murder the deceased. Moreover, the location of the petitioner at the scene of the crime has been established through the CDR records.

9. It is further submitted that during the course of investigations, the accused had been arrested on 07.11.2019 in *FIR No. 329/2019 dated 07.11.2019 for the offence under Section 186/353/307/506 IPC and 25/27 of the Arms Act, Police Station Crime Branch* and he was found in possession of a pistol and three live cartridges, which have been sent to FSL, Rohini, on 03.12.2019. The petitioner had been formally arrested in this case after seeking his production warrants, on 21.11.2019. His Police Custody was taken for one day and thereafter, on completion of investigation, the Charge Sheet was filed against him.

10. Submissions heard.

11. The petitioner is in judicial custody for about two years and seven months. While the petitioner has claimed that the prosecution witnesses have not supported the prosecution case, but PW-8 has deposed extensively and whether his testimony establishes incriminating evidence or not, cannot be judged at this stage when other witnesses/link evidence is yet to be recorded. One most important link of evidence is the use of weapon of offence that is the pistol, which has been recovered in another case in which the petitioner was arrested. The FSL Report of the weapon of offence is yet awaited.



2024:DHC:6300



12. Though the previous pending cases may not be a relevant factor as has been held in the case of Prabhakar Tewari (supra), but as rightly pointed out by the Ld. Addl. Public Prosecutor, the previous history not only reflects his propensity to commit crime but significantly his influence on the witnesses cannot be discounted for the simple reason that some witnesses according to the petitioner himself have turned hostile. Considering the gravity of the offence and that other prosecution witnesses are yet to be examined, it is not considered a fit case for grant of bail, which is hereby dismissed.

13. The Petition is disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 16, 2024/RS