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

+ **BAIL APPLN. 1500/2021**

VAKEEL KUMAR @ BHANU

.....Petitioner

Through: Mr. Abhimanyu Rana, Mr. Mohit
Sejwal, Ms. Kirti , Mr. Nitin Sejwal
& Mr. Rahul Yadav, Advocates

versus

STATE GOVT. OF NCT DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
Insp. Naresh PS KNK Marg

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

08.08.2024

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1. This petition is filed seeking regular bail in FIR No.326/2020, under Sections 302/204/34 IPC, registered at PS K.N. Katju Marg. Petitioner was arrested on 25th September 2020; trial is underway and 7 out of 31 witnesses have been examined so far.
2. APP for State points out that PW-Irfan, the eyewitness (the last seen witness) has also been examined.
3. It is noted that by order dated 20th July 2021, interim bail was granted to the petitioner on his furnishing personal bond with one surety of the like amount. Relevant portion of the said order is reproduced hereunder for ease of reference:



2. Learned counsel for the petitioner states that as per the post-mortem report cause of death has not been given as yet. There is no external injury on the body of the deceased, thus the version of the prosecution is totally belied. As per the complainant, name of Razia Khatoon was engraved on the arm of the deceased whereas as per the post-mortem report there was no tattoo mark. The deceased went missing on 2nd September, 2020 whereas the missing report was lodged on 11th September, 2020. Even till date there is no evidence that the cause of death of the deceased was homicidal in nature.

3. The above noted FIR was registered on 24th September, 2020 on a dead body being found at Haiderpur Treatment Plant Jali on 4th September, 2020. The post-mortem on the body was conducted on 16th September, 2020 and on 24th September, 2020 the body was identified as that of Irshad son of Naimulla by the complainant, *i.e.* Razia Khatoon, the wife of the deceased on whose statement the FIR under Section 302 IPC was registered.

4. On 11th September, 2020 Razia Khatoon had lodged a missing report of her husband at Police Station Narcla Industrial Area vide DD No.23-A wherein she stated that she has been residing at Vijay Nagar Colony, Bawana Delhi with her husband and children for the last three years. She had gone with her children at her parent's house in District Lakhimpur, U.P. on 29th August, 2020. On 3rd September, 2020 son of her elder sister informed her on telephone that on 2nd September, 2020 the petitioner had taken away Irshad the deceased in a Santro car, had also abused him and was demanding back the borrowed money. Thereafter Irshad had not come home. The complainant along with her children came back to Delhi and searched Irshad from 5th September, 2020 to 11th September, 2020, however, in vain and thus lodged the missing report.



5. On 25th September, 2020 the petitioner besides Anil Kumar and Pintu Kumar were apprehended who disclosed their involvement in the above said case. The disclosure statement pursuant where to no recovery was made, noted that since Irshad had taken ₹4,000/- from the petitioner and on 2nd September, 2020 while they were drinking quarrel took place over money petitioner beat Irshad over money with wooden stick and also with kicks and punches, etc. due to which he fell down, become unconscious and died due to the beatings given. Thereafter his body was hidden in the bushes near the park wall and thereafter they threw the dead body in a canal.

6. Learned counsel for the petitioner has taken this Court through the post-mortem report which shows no tattoo mark despite the claim of the complainant that her name was tattooed on the arm of the deceased and no external injury was found on the dead body of the deceased, the dead body was recovered within two days from the last seen incident when the Nephew of the complainant saw the deceased going with the present petitioner.

7. The cause of death in the post-mortem report is awaited, awaiting the viscera report. Since till now the cause of death has been received and even the identity of the dead body is disputed in view of the fact that the tattoo mark as claimed by the complainant was not found on the body of the deceased and the exact identification of the dead body based on the DNA analysis is yet awaited, which reports are likely to take some time and that the petitioner is in custody since 25th September, 2020, this Court deems it fit to grant interim bail to the petitioner.

4. Considering that petitioner has been on interim bail, which has been extended from time to time by this Court, through these years and there is no complaint of him influencing any witness or misusing the liberty or



non-appearance before the Trial Court, and that the material witnesses have been examined, as also that trial will take some time to conclude, besides, no other circumstance is reported by the State to deny bail to petitioner.

5. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- iv. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- v. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the



case.

6. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
7. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
8. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 8, 2024/sm