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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1152/2024**

KASIM KHAN ALIAS KAREEM KHANPetitioner
Through: **M. S. A. Khan, Mr. Mirza Rizwan
Baig and Mr. Sophiya Salim,
Advocates.**

versus

THE STATE (NCT OF DELHI)Respondent
Through: **Mr. Manjeet Arya, APP for the State
with Insp. Vipin Kumar and SI Chetan
Rana, PS V K South.**

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA
ORDER
24.07.2024

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1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 282/2018 under Sections 307/34 IPC registered at P.S.: Vasant Kunj (South). Section 302 IPC was subsequently invoked on death of Danish.
2. In brief, as the case of the prosecution, FIR was registered on the complaint of Suhel Khan, who alleged that on 14.06.2018, one Waseem Khan and his sons Amir Khan, Kasim @ Kareem Khan and Sharukh Khan were filling debris in the pit which was objected to by Danish (since deceased), as the same would have caused water-logging. Thereupon accused Waseem Khan exhorted his sons to bring knife and kill them. Accordingly, Amir Khan and Kasim @ Kareem Khan brought knives from their house. Further, Suhel



Khan (complainant) was held by accused Sharukh Khan while accused Kasim @ Kareem Khan attacked on his chest with knife, but complainant managed to escape sustaining injuries on his hand. He further alleged that Danish was held by accused Waseem Khan, while fatal stab injury was inflicted on chest by Amir Khan.

3. Learned counsel for the petitioner submits that the petitioner was not involved in the aforesaid incident and only abrasion was suffered by complainant Suhel as reflected in the MLC. He further submits that the knife allegedly used in the incident by Kasim (petitioner) also could not be recovered during the course of investigation. It is emphasized that participation of the petitioner as alleged is doubtful in absence of any other corroboratory evidence. It is pointed out that the statement of the material witness has already been recorded and there is no possibility of influencing the witnesses. Petitioner is further stated to be in custody since 2018 and conclusion of trial is likely to take some time.

4. On the other hand, application is vehemently opposed by the learned APP for the State and submits that charge under Section 307 IPC has been framed against the petitioner with respect to assault on Suhel Khan which was made in furtherance of common intention. However, he admits that as per MLC, only an abrasion was sustained by Suhel Khan.

5. I have given considered thought to the contentions raised. As admitted by learned APP for State, knife used by the petitioner could not be recovered during course of investigation. Further, only an abrasion was suffered by Suhel Khan in the alleged incident which is opined to be simple in nature. The material witness, Suhel Khan, has already been examined and as such there is no possibility of influencing the material witness. Petitioner is in custody



since 2018 and conclusion of trial is likely to take some time.

Considering the totality of facts and circumstances, petitioner is admitted to bail on furnishing a personal bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount to the satisfaction of the learned trial court and subject to the following conditions:

- (i) Petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned on release;
- (ii) Petitioner shall not threaten or influence the witnesses in any manner;
- (iii) Petitioner shall not leave the NCT of Delhi without the prior permission of the learned Trial Court.

Application is accordingly disposed of.

Nothing stated herein shall tantamount to expression of opinion on the merits of the case.

A copy of this order be forwarded to the Superintendent Jail and concerned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

JULY 24, 2024

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