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

+ **BAIL APPLN. 1425/2024**

RAJIQ ALIAS SAMEER

..... Petitioner

Through: Mr. M. Rehman, Mr. Nadeem Khan,
Ms. Shaheen and Ms. Meenakshi
Gupta, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Insp. Harish Kumar, PS Karawal
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

27.05.2024

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1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 388/2019, under Sections 302/201/34 of the IPC, registered at P.S. Karawal Nagar.
2. The case of the prosecution as per the status report dated 20.05.2024 authored by SHO, P.S. Karawal Nagar is as under:-

“That on 29/09/19 a PCR call vide DD No 8A received at PS Karawal Nagar, Delhi regarding a dead body found at ganda nala near Sardar patel school, Karawal Nagar, Delhi. On this IO/Insp. Sanjiv Kumar reached at the spot and found a highly decomposed dead body of an unknown female aged around 20-25 years lying in ganda nala. The crime team inspect the scene of crime and dead body was preserved at GTB hospital mortuary and on 02/10/19 the dead body was identified as Aafrin D/o Rafik Ahmed R/o D-512/2, Buland Masjid, Shastri park, delhi. She was missing from her residence since 26/09/19. IO Insp. Sanjeev kumar recorded the statement of Rabia begum (Mother of deceased) and Danish (Brother of deceased) who stated that



Aafrin left the house to meet her tuition teacher Naushad on 26/09/19 and she was missing since then. Call records of deceased Aafrin also shows that she was in continuous touch with her tuition teacher Naushad. During course of investigation accused Naushad arrested on 05/10/19. He disclosed that he killed Aafrin on 26/09/19 at his home by beating with a stick ie. Danda because she (deceased) was pressurizing him for marriage and accused Naushad was not ready for marriage with deceased. Therefore accused Naushad killed her.

Accused Naushad used a danda and hit on the head of deceased Aafrin and assumed that she was dead. He put her body in jute bag and called his Jija Rajik @ Samir (Petitioner) and tell him all facts. (Petitioner) accused Rajik @ Samir assure him for his help and arrange an Echo van No DLSCP 8741 and they put the unconscious Aafrin into it and throw it in Ganda Nala, Karawal Nagar.

As per post mortem report cause of death is asphyxia as a result of ante mortem drowning. As per statement u/s 161 Cr.p.c of neighbour Anish Ahmed of accused Naushad, he saw accused Naushad with one person in echo van carrying jute bag and putting jute bag into the van. The call details record also shows that accused Naushad was in continuous touch with deceased Aafrin before her death and with (Petitioner) accused Rajik @ Samir while committing offence. During investigation Echo van No DL 5CP 8741 recovered on the instance of (Petitioner) accused Rajik @ Samir. On the instance of both accused person belongings of deceased Aafrin (stole and sandal) and danda used in offence recovered from side of nala near jafrabad metro station. These belongings were correctly identified by mother of deceased during TIP proceedings. One broken mobile of deceased Aafrin also recovered on the instance of both accused person. Chargesheet was filed in the case on 02/01/2020 and case is pending trial before hon'ble court of Sh. Pawan Kumar Matoo ASJ, KKD courts, Delhi.”

3. Learned counsel appearing on behalf of the applicant submits that the two witnesses cited by the prosecution with respect to the present applicant



namely, Mohd. Shahid Rizwi (PW-2) and Aneesh Ahmed (PW-10) have been examined before the Learned Trial Court and they have not supported the case of the prosecution. The prosecution had relied upon the statement of PW-2 to establish the fact that the aforesaid Ecco car was borrowed by the present applicant from him. Similarly, the prosecution had relied upon the statement of PW-10 to establish that the present applicant was last seen with the co-accused Naushad near the said Ecco car. Both the aforesaid witnesses have not supported the case of the prosecution. It is further submitted that no other public witness remains to be examined. It is pointed out that the applicant has been in judicial custody since 07.10.2019.

4. Learned APP for the State, on instructions from the Investigating Officer, submits that apart from the aforesaid two witnesses, the said Ecco car was recovered at the instance of the present applicant alongwith some belongings of the deceased.

5. Heard learned counsel for the parties and perused the record.

6. The case of the prosecution as per the aforesaid status report is that the present applicant was called by the co-accused Naushad after hitting the deceased and assuming she was dead and thereafter, they put her in a jute bag and dumped the same in a nala. The present applicant was shown to be involved alongwith the co-accused on the statements of the two witnesses, namely, Mohd. Shahid Rizwi (PW-2) and Aneesh Ahmed (PW-10), who have admittedly not supported the case of the prosecution. Out of 32 witnesses only 10 have been examined so far and the trial is likely to take some time. The Nominal Roll reflects that the present applicant has been in judicial custody since 07.10.2019 and he has not been involved in any other case.



7. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

8. The application is allowed and disposed of accordingly.

9. Pending application(s), if any, also stand disposed of.

10. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.

11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 27, 2024/sn

Click here to check corrigendum, if any