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

+ **BAIL APPLN. 1477/2024**

**GOLDY SEHGAL**

.....Petitioner

Through: Mr. Nikhil Mehta, Mr. Varun Sharma,  
Mr. Manoj Kumar, Mr. Saksham  
Bawa, Mr. Harsh Vikram, Advs.

versus

**STATE ON NCT OF DELHI**

.....Respondent

Through: Mr. Satish Kumar, APP for State and  
SI Robin Khatana, PS Moti Nagar.

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**

**10.09.2024**

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1. The present bail application has been filed under Section 439 r/w Section 482 Cr.P.C. seeking grant of regular bail on behalf of petitioner in case FIR No. 69/2023 dated 13.03.2023 under Section 308/34 IPC registered at PS Moti Nagar, New Delhi.
2. The facts in brief are that the present FIR was lodged on 13.03.2023 wherein the complainant alleged that on 11.03.2023 at around 11:40 pm, he along with his friend Pankaj came near Fun Cinema, Moti Nagar to take their friend Pawan from there. While the complainant along with Pankaj waiting outside, they came to know that Pawan (Victim) and Karan (co-accused) were quarreling with each other inside Fun Cinema, Moti Nagar under the influence of alcohol. Allegedly, after some time, they both came out of the Fun Cinema and again started quarreling with each other. In the meanwhile, the



petitioner Gulshan Sehgal @ Goldy also came there and started quarreling with victim Pawan. Allegedly, Karan and Gulshan Sehgal @ Goldy started beating the victim and after that co-accused Karan pushed the victim Pawan, due to which the victim fell down on the road and the petitioner Gulshan Sehgal @ Goldy caught his head and smashed it on the road. The victim suffered injuries on his head. Initially the injuries were opined to be grievous. The charge-sheet under Section 308/34 IPC was filed. However, later on, on 05.01.2024, the victim Pawan was declared 'Brought Dead' vide MLC No. 55/24. As per the Post Mortem report, the cause of death was due to encephalomalaic changes (softening or loss of brain tissue) in the brain matter due to underlying cranio cerebral injury (head injury) caused as a result of direct and forceful impact upon head along with cerebral oedema and septicaemia. Pursuant to this, the supplementary charge-sheet was filed under Section 304/34 IPC.

3. Learned counsel for the petitioner submits that the petitioner is a young boy of 30 years of age and is in custody since 31.07.2023. Learned counsel submits that co-accused Karan has already been admitted to Anticipatory Bail. It has been submitted that the investigation is complete and the trial may take a long time and therefore, the petitioner may be admitted to regular bail.
4. Learned APP for the state has opposed the bail application on the ground that the role of the present petitioner was different from the co-accused Karan. It has also been submitted that the petitioner is also involved in case FIR No. 886/2015 filed under Section 384 IPC registered at PS Moti Nagar.



5. Law on bail is well settled that 'Bail is a rule and jail is an exception'. Bail should not be granted or rejected in a mechanical manner as it concerns liberty of a person. Further, the Courts while considering an application for bail must not go into deep into merits of the matter such as question of credibility and reliability of prosecution witnesses which can only be tested during the trial. Even ground of parity is one of the above mentioned aspects which are essentially required to be considered.
6. It is also well settled that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner, compassionately and not in whimsical manner. The apex court has time and again held in a catena of judgments that in the case of bail under section 439 CrPC, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by the Apex Court in ***Dataram Singh v. State of U.P. and Anr.***<sup>1</sup> & ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Anr.***<sup>2</sup>.
7. The petitioner is in custody since 31.07.2023 and further it is a matter of record that initially the charge-sheet was filed under Section 308/34 IPC and thereafter section 304 of IPC was added. The perusal of the first MLC indicates that the victim was taken to the hospital by one Pankaj Kumar with the history of fall from scooter under the influence

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<sup>1</sup> (2018) 3 SCC 22

<sup>2</sup> 2004 (7) SCC 528)



of alcohol. The court at this stage cannot minutely appreciate the material and therefor avoids to make any observation on the merits of the case.

8. Taking into account the period of incarceration and the fact that the charge-sheet has already been filed, and no possibility to conclude trial in near future, the petitioner is admitted to regular bail on furnishing a personal bond of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of Ld. Trial Court and also subject to the following conditions:
- a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
  - b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
  - c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
  - d) the Petitioner shall provide his/her mobile number(s) to the Investigating Officer and keep it operational at all times;
  - e) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
9. In view of the above, the present bail application stands disposed of.

**DINESH KUMAR SHARMA, J**

**SEPTEMBER 10, 2024/AR/HT..**