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

+ **BAIL APPLN. 1553/2024**

NATHU RAM

.....Petitioner

Through: Mr. Abdul Gaffar, Mr. Sartaz Tiyaagi
& Mr. Aneesh Rana, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC, Crl. with Mr.
Kshitiz Garg, Mr. Ashvini Kumar &
Ms. Chavi Lazarus, Advocates for
State.
Insp. Prabhu Dayal & S.I. Pankaj, PS
Nangloi, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

04.07.2024

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1. The present Petition under Section 439 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking Regular Bail in the FIR No. 720/2023 registered under Sections 302/201/34 of the Indian Penal Code, 1860 at Police Station Nangloi.
2. It is submitted on behalf of the petitioner that the first Regular Bail Application bearing No. 3810/2023 under Section 439 of the Code of Criminal Procedure, 1973 was filed before the learned Additional Sessions Judge which was dismissed *vide* Order dated 19.12.2023. The second Regular Bail Application bearing No. 101/2024 under Section 439 of the Code of Criminal Procedure, 1973 was filed before the learned Additional Sessions Judge which was dismissed *vide* Order dated 06.03.2024.



3. Learned counsel for the petitioner submits that from the disclosure statement of accused/Ram Nath as well as the other evidence of the prosecution, it is quite evident that the only allegation that can be sustained vis-a-vis., the petitioner is that he may have destroyed the evidence, but there is evidence of his no participation in commission of the murder of the deceased/Seema.

4. Further, in the three CCTV footages relied upon by the prosecution, none has shown that the accused/petitioner had participated in the actual commission of offence.

5. He further submits that the third piece of evidence is the recovery of the mobile from which the accused/petitioner had talked to the daughter of the deceased/Seema, but this in no way makes him guilty of the offence. The said mobile phone has been traced to belong to one Udayveer who has claimed that his mobile got stolen about a week before but there is no Non-cognizable Report (NCR) in this regard.

6. Furthermore, from the disclosure statement of the accused/Ram Nath, it is evident that he had talked to the petitioner to join him in having the sexual relationship with the deceased/Seema, to which the petitioner did not agree.

7. It is also submitted on behalf of the petitioner that the petitioner is in the judicial custody from 11.09.2023 and he has five minor children.

8. Learned counsel for the petitioner submits that even the best case of the prosecution is based on the allegations of destruction of evidence, but there is no evidence of participation of the accused/petitioner in the commission of the offence. It is further submitted that the only other evidence which the prosecution has is the post mortem report which states



that the deceased/Seema has died by physical strangulation. Therefore, the petitioner may be granted the Regular Bail.

9. **Learned Additional Standing Counsel for the State** has opposed the present petition on the ground that there are as many as three CCTV footages showing the presence of the accused/petitioner at the scene of crime. He further submits that one CCTV which was outside the place of incident clearly reflects going in and out of the accused/petitioner along with other accused persons inside the room and what transpired inside the room cannot be ascertained at this stage. It is a matter of defence whether the accused/petitioner had participated in the commission of offence or not. At this stage, it cannot be said that the complicity of the accused/petitioner in the commission of offence is not *prima facie* established.

10. It is submitted on behalf of the respondent that the Charge Sheet has been filed and the matter has been fixed for framing of charge on 31.07.2024. The learned counsel for the accused/petitioner is at liberty to address all these arguments about the non-complicity of the accused/petitioner in the commission of offence at the time of framing of charge.

11. In the end, learned Additional Standing Counsel on behalf of the respondent submits that considering the gravity of the offence and also evidence which has been placed on record, no case for bail is made out.

12. **Submissions heard.**

13. The prosecution has relied upon the three CCTV footages which *prima facie* establish the presence of the accused/petitioner at the scene of crime.

14. Considering the gravity of the offence and also that the matter has



been listed for framing of charge where learned counsel for the petitioner is at liberty to raise all these objections.

15. No case for grant of Regular Bail is made out.

16. The present petition is dismissed.

17. Learned counsel for the petitioner submits that the framing of charges may not be deferred on account of non-availability of the FSL report which may be filed along with the supplementary chargesheet as and when received.

18. Accordingly, learned Additional Sessions Judge is directed to hear the parties on the framing of charge without waiting for the FSL report to be filed, which may be considered as and when the same is filed.

NEENA BANSAL KRISHNA, J

JULY 4, 2024

S.Sharma