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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1594/2024, CRL.M.(BAIL) 766/2024**
MUKESH KUMAR

.....Petitioner

Through: Mr.Rajesh Gulab Inamdar,
Mr.Siddhant Kumar Singh and
Mrs.Ananya Singh, Advts.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr.Raghvinder Varma, APP for the
State.
Insp.Naveen Kumar, PS Samaypur
Badli

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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08.07.2024

1. Present petition has been moved under Section 439 Cr.P.C. for grant of bail in case FIR no.480/2023 dated 23.05.2023 registered under Section 304/34 IPC at Ps Samaipur Badli.

2. The brief facts as mentioned in the status report filed by the State are as under:

1. That the brief facts of the case/incident are as on 22/05/2023 at about 06/45 PM and at 08/50 PM the information were received in PS Samaypur Badli that "caller ke bahan ka pati uske ghar aakar maar pit kar raha hai need police".

2. That on receiving the information to the police, ASI Rajesh No. 732/OND with other police staff, reached the place of information i.e. House no. 502, Jatav Moholla, Samaypur Badli Village, Delhi. At this



place one person namely Arun Kumar s/o Sushil Kumar was found unconscious. Meanwhile, father (Sushil Kumar), mother (Ranjana) and brother (Varun Kumar) of Arun Kumar were also reached at the place of occurrence.

3. That Arun Kumar was carried to BSA Hospital. At hospital he was declared dead vide over MLC No.7003 dt. 22/05/23 at 10/05 PM (Name Arun (Age 37Yrs) s/o Sushil r/o House No. 213. Shakti Nagar, Bahadurgarh, Haryana. The dead body was preserved in BSA Hospital Moeruary.

4. Hence, the present case was registered on the statement of deceased's father Sh. Sushil Kumar R/o H.No. 213. Gali No. 4. Shakti Nagar, Bahadurgarh, HR that his son Aum Kumar was got marriage with Anju@ Renu D/o Rajender R/o Village Badli, Delhi on 09/03/23. On 22/05/23 his father in law Rajender Singh was admitted in RML Hospital and Arun Kumar went for the help of her ill father-in-law. At about 05.30 PM he received a call from deceased Arun Kumar that he was surrounded in in- laws house in Badli. Delhi. Thereafter the mobile phone of Arun was switched off. They reached at Badli Village and found his son Arun Kumar in unconscious condition at first Floor of the house. He was taken to BSA Hospital, Rohini by the PCR van where he was declared dead.

5. That the next day, the post mortem of deceased Arun got conducted at mortuary. BSA Hospital. Rohini vide PM No. 361/2023. During Postmortem exhibits i.e. Viscera, Blood in gauge and cloths of deceased along with Sample seals of "DEPT. OF FM DR. BSA HOSPITAL DELHI GOVT." were preserved and exhibits have been taken in police possession through seizure memo.

6. That the PM report no. 361/23 has been received which reveals that, "Death was due to combined effect of cerebral damage and hemorrhagic shock consequent to multiple injuries to the body. All injuries were ante-mortem in nature, fresh before death and caused by blunt force. However, VISCERA has been preserved to ascertain any intoxication at the time of death."

7. That during the course of Investigation, on 23/05/2023 four accused



were arrested and disclosed that they beaten to Arun with plastic pipe, kicks and punches. On the instance of accused Kamal Kumar S/o Rajender Kumar weapon of offence i.e Plastic Pipe white color length 28 inches and 01cm has also been recovered and taken into police possession through seizure memo.

3. Learned counsel for the petitioner submits that there is no eye witness to the incident. Learned counsel has submitted that the present petitioner has been arrested merely on the statement of the parents of the deceased, who admittedly have reached on the spot after the incident. Learned counsel has submitted that the evidence against the petitioner is the disclosure statements of the co-accused Kamal Kishore, Jatin Kishore and Praveen Grover. Learned counsel submits that even in the statements of the co-accused, no role has been attributed to the petitioner. Learned counsel submits that petitioner is in custody since 23.05.2023, the investigation has already been completed and the charge-sheet has been filed, therefore, the petitioner may be released on bail.
4. Learned APP has opposed the bail application.
5. I have seen the status report.
6. Learned APP submits that he shall place the status report on record. Learned APP submits that the deceased was beaten brutally by the accused persons including the present petitioner. Learned APP submits that when the parents of the petitioner reached on the spot, all the accused persons who are closely related to each other were present in the house and they even threatened the parents of the deceased. Learned APP submits that the charges are yet to be framed and therefore, bail may not be granted.



7. I have considered the submissions.
8. The criterion for grant of bail in the serious offence is very well settled. The court has to look into the gravity of the offence, antecedents of the offender, likelihood of the accused fleeing away from the cause of justice and all other attendant circumstances.
9. In the present case, admittedly, the parents of the deceased namely Mr.Sushil Kumar and Mrs.Ranjana reached on the spot after the incident. The case of the prosecution is that the parents of the deceased got a phone call from the deceased telling them to reach to her in-laws house. When the parents reached there, the accused persons including the petitioner who are closely related to each other were levelling allegations against the deceased. As per the status report, some weapon of offence has been recovered from accused Kamal Kumar. The pre-trial detention cannot be taken as a primitive measure. There is no criminal antecedents of the accused.
10. In the facts and circumstances of the case, the petitioner is admitted to bail on his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount with the satisfaction of the trial court, 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 in case of change of address or 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.
 - f) The petitioner shall attend the trial regularly.
11. In view of the above, the petition along with the pending application is disposed of.
12. A copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

DINESH KUMAR SHARMA, J

JULY 8, 2024

rb/dg..