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

+ **BAIL APPLN. 2279/2023**

MOHD NADEEM

..... Petitioner

Through: Mr.Madhav Khuranna,
Ms.Nidhi Varadhan,
Mr.Kanishk Arora, Ms.Shakshi
Goyal, Mr.Vignaraj, Advs.

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr.Hemant Mehla, APP with
Insp. Dinesh Chandra, SI
Abhishek

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

10.01.2024

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1. This is an application filed seeking regular bail in FIR no.75/2017 registered with Police Station: Khajuri Khas under Sections 302/307/201/34 of the Indian Penal Code, 1860 (in short, 'IPC').

2. Briefly stated, the allegation against the applicant is that on 14.02.2017 at about 11.00 AM, the sister-in-law of the applicant (brother's wife), that is, Mrs.Rukhsar, made a phone call to her father informing her that she was being beaten by her father-in-law, husband-the applicant, and the applicant's other brother. Mrs.Rukhsar's father called the father of the applicant in this regard, but the father of the applicant rudely replied to him and called him to bring 4 to 6 people along with him for discussion on the discord between the parties.

3. It is further alleged that the father of Mrs.Rukhsar, her brother,



along with a few other people, which also included one Mr.Abdul Gaffar, went to the house of one Mr.Hafizulla, who stays near the house of the accused persons. There the accused persons apologized for their conduct. From there, they went to the house of one Mr.Sabir. From the house of Mr.Sabir, they went to the matrimonial home of Mrs.Rukhsar. While they were sitting there, the father of Mrs.Rukhsar along with Mr.Abdul Gaffar and one Mr.Haji Babu, went upstairs to console Mrs.Rukhsar, who appeared to be frightened and wished to go to her parental house with her father and her brother. They came down and requested the father of the applicant to let her go along with them to her parental house. It was at this point, when the father of the applicant and Mrs.Rukhsar's husband became furious and rushed towards the kitchen to grab knives to attack. They attacked Mr.Sayeed Ansari and Mr.Amiruddin with those knives. They also attacked Mr.Abdul Gaffar and Mr.Subrati.

4. It is alleged that the applicant caught hold of Mr.Abdul Gaffar, while he was being attacked with a knife by Mrs.Rukhsar's husband. The prosecution further alleges that thereafter the applicant, his brother, and one Mr.Rehan, picked up *Dandas* and started hitting the persons who were there from the side of the family of Mrs.Rukhsar.

5. The learned counsel for the applicant, placing reliance on the statements of PW-1-Wasim, that is, brother of Mrs.Rukhsar, and PW-2-Mr.Subrati Khan, that is, the brother-in-law of Mrs.Rukhsar's father, submits that the only allegation made against the applicant is that he caught hold of one Abdul Gaffar, who, as per the MLC, has suffered only a simple injury. As far as the allegation of the applicant



beating the injured with a *Danda* is concerned, the learned counsel for the applicant submits that there is no such injury reflected in the MLC of Abdul Gaffar, and even otherwise, the alleged *Danda* was allegedly recovered only after more than 2 months of the date of the incident and from the house itself. This itself makes the recovery suspicious.

6. He further submits that the applicant had surrendered on 28.04.2017 and remained in custody till 02.06.2021, when he was released on interim bail on the recommendations of the High Powered Committee, whereafter, on the expiry of the period of the said interim bail, he duly surrendered again on 07.04.2023. He submits that during this period, the conduct of the applicant was never objectionable and there is no allegation against him of misusing the conditions of bail.

7. He further submits that the trial is likely to take long and, therefore, there is no reason as to why he should be made to suffer further incarceration during the period of trial.

8. On the other hand, the learned APP on behalf of the State submits that the allegations made against the applicant are serious in nature. A death of a person has been caused in the incident in question. There is a positive role attributed to the applicant inasmuch as he also actively participated in the incident by holding one of the victims while co-accused Mohd.Rahees, that is his father, was inflicting injury on him by knife, which was stated by the witnesses to be with the intent to kill. He further submits that the applicant is also accused of hitting the injured Mr.Abdul Gaffar and others by use of a *Danda*.

9. He submits that two further eye-witnesses are yet to be



examined before the learned Trial Court and, therefore, there is every likelihood that the applicant may tamper with the evidence and cause pressure on the witnesses.

10. I have considered the submissions made by the learned counsels for the parties.

11. As is evident from the above, the incident is of 14.02.2017. The accused was in custody between 28.04.2017 to 02.06.2021, and thereafter, from 07.04.2023 till date. He has already undergone around five years of incarceration.

12. There is no allegation against the applicant that while he was released on *interim* bail, the applicant had, in any manner, misused the liberty granted.

13. Considering the role of the applicant in the alleged incident and in view of the above peculiar facts, the applicant is directed to be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. Applicant shall provide his permanent address to the learned Trial Court. The applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in the residential address.
- iii. Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.



- iv. Applicant shall provide his mobile numbers to the IO concerned, which shall be kept in a working condition at all times and shall not be switched off or changed without prior intimation to the IO concerned. The mobile location shall also be kept on at all times.
- v. Applicant shall report before the concerned IO every 15 days.
- vi. Applicant shall not communicate with or come in contact with any of the prosecution witnesses, the victim or any member of the victim's family or tamper with the evidence of the case while being released on bail.
- vii. Applicant shall not indulge in any criminal activity.

14. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the matter.

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

16. The Bail Application is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 10, 2024/RN/AS

Click here to check corrigendum, if any