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

+ **CRL.M.C. 3144/2022**

NIDHI LAMBA

.....Petitioner

Through: Mr. Ashish Laroia and Ms. Sheetal Bhati, Advs.

versus

THE STATE AND ORS.

.....Respondents

Through: Ms. Richa Dhawan, APP for the State Insp. Vikas Mudgal, PS Mukherjee Nagar.
Mr. Hemant Gulati, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **10.07.2024**

1. The Petitioner has approached this Court challenging an Order dated 23.06.2022 passed by the learned Additional District & Sessions Judge, Rohini Courts, Delhi wherein bail has been granted to the two accused persons, i.e., Respondents No.2 and 3 herein.
2. The Petitioner herein is the wife of the deceased. The proceedings emanate from FIR No. 536/2022 dated 09.05.2022 registered at Police Station Mukherjee Nagar for offences under Sections 304 & 34 IPC. The FIR has been registered at the complaint of one Rahul Gandhi.
3. The FIR was initially filed for an offence under Section 304 read with Section 34 IPC which was later on converted into an FIR under Section 302,



427 and 34 IPC.

4. Notice was issued in the matter. Status Report has been filed.

5. A perusal of the Status Report indicates that on receipt of information vide DD No.31A, SI Pardeep reached Pentamed Hospital, Model Town, Delhi where he was informed that one Praveen Lamba, who was earlier being treated at Babu Jagjivan Ram Hospital, Jahangirpuri, was shifted to Pentamed Hospital for treatment by one Nidhi Lamba, i.e., Petitioner herein, and he was declared brought dead.

6. Upon enquiry about the incident, it was found that on 09.05.2022 at about 5:28 AM, on receipt of information vide DD No.9A regarding quarrel, Head Constable Lakhmi Chand reached the spot at House No. 348, Parmanand Colony, Mukherjee Nagar, Delhi and the injured was shifted to Babu Jagjivan Ram Hospital, Jahangirpuri by PCR van.

7. A perusal of the FIR shows that at about 11:30 PM, the Complainant came to meet one Praveen Lamba, the deceased. It is stated that the Complainant and the deceased had left the area in order to consume liquor and till about 3:00 AM, they were roaming around in the area of Mukherjee Nagar. It is stated that they went to Vikaspuri and at about 4:00-4:30 AM, they returned to Parmanand Colony, Mukherjee Nagar.

8. The FIR states that the Complainant and the deceased got out of the car in order to urinate and at that time, a verbal quarrel started between persons who were residing at the first floor of the spot where they were urinating. It is stated that some glass pieces were thrown at the deceased, which hit him on the left leg and his leg started bleeding.

9. Police was informed and PCR van came and took the Complainant and the deceased to hospital. The MLC shows that the injuries on the



deceased were simple in nature. The deceased unfortunately passed away on 09.05.2024. The accused were arrested on 10.05.2022. On the very same day, an application for bail was filed by the accused. The learned Trial Court after looking at the material on record *vide* Order dated 23.06.2022 has granted bail to the accused which is under challenge in the present petition.

10. Learned Counsel for the Petitioner/complainant contends that the bail has been granted to the accused persons purely on the basis of conjectures and the learned Trial Court has virtually acquitted the accused persons. He also states that the learned Trial Court relied on the principle of the right of private defence. He states that there was no question of private defence because there was no allegation that the Victim or the Complainant had in any way caused any danger to the accused because of any assault committed to the deceased or the complainant.

11. Learned Counsel for the Petitioner draws the attention of this Court to the CCTV footage which indicates that the deceased was standing on the road and things were thrown at the deceased. He states that the entire basis of granting bail is fallacious and the order must be set aside.

12. The parameters for grant of bail have been well settled in a catena of judgments passed by the Apex Court. The principles to be seen while granting bail are:- (a) nature of the offence; (b) the manner in which the offence was committed; (c) the antecedents of the accused; (d) the threat of tampering with the evidence and (e) chances of the accused repeating the offence. None of the parameters are satisfied in this case.

13. A perusal of the CCTV footage shows that the victim was in an inebriated condition and that things were thrown at him and CCTV footage shows that a glass piece hit the leg of the victim. The post-mortem report



indicates that the nature of death is hemorrhagic shock as a result of injury to the lower part of the leg and underlying blood vessels consequent upon blunt force/object impact sufficient to cause death in ordinary course of nature. The opinion of the doctor who conducted the post-mortem reads as under:-

“OPINION: *Cause of death is hemorrhagic shock as a result of injury to the lower part of the leg and the underlying blood vessels consequent upon blunt force/object impact sufficient to cause death in ordinary course of nature. All injuries are antemortem in nature. However, viscera is preserved to rule out any intoxication.”*

14. The Trial Court was, therefore, justified in granting bail for the reason that no weapon was used in the incident. It looks as if the incident, as placed before this Court, was a quarrel that took place and the last piece has possibly hit the leg of the victim.

15. The reasoning given by the learned Trial Court and looking at the nature of the incident, this Court is not inclined to interfere with the order granting bail. Needless to state that the observations made by the learned Trial Court is only for the purpose of granting bail, and therefore, cannot be treated as any findings on the merits of the case and the case will be decided on the weight of the defence adduced before the Trial Court.

16. The petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 10, 2024

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