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

+ **BAIL APPLN. 1659/2024**

ANWAR

.....Petitioner

Through: Mr Vikas Azad, Ms SoniKashyapo
and Mr Naveen Kumar, Advocates.

versus

STATE OF DELHI NCR & ANR.

.....Respondents

Through: Mr. Aman Usman, APP for the State
Insp. Sandeep Kumar, PS Gokul Puri

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

11.07.2024

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1. This petition is filed seeking regular bail in FIR No.318/2020, PS Gokul Puri, under Section 302 IPC. Charge-sheet has been filed; charges are yet to be framed.
2. Counsel for petitioner points out that as per the case of prosecution, on 27th May 2020, in the morning deceased had gone to Gokul Puri from his house but did not return. During the course of investigation, CCTV footages of the area were checked and deceased was found running behind the petitioner on 27th May 2020 at 19:57 hours. Petitioner and co-accused Anuj were also seen in the CCTV footage of the said date. Subsequently, petitioner and Anuj were apprehended and both were considered as CCL, however, later petitioner was declared major by the Juvenile Justice Board and was in the age group of 18-20 years, as per the ossification test.
3. Counsel for petitioner points out to statement of petitioner's brother



recorded under Section 161 Cr.P.C. as per which he had gone to Gokul Puri on 27th May 2020 to meet his brother and did meet him at 3:30 p.m. On this basis, he claims that the prosecution story that date of incident is 28th May 2020 is not sustainable.

4. APP however states that they have tried to file a supplementary statement of petitioner's brother considering that there is an error in recording the date, but the request was refused by the Trial Court.

5. Petitioner is incarcerated since 24th June 2020; charges have not yet been framed; petitioner is around 22-24 years of age at this stage.

6. Counsel for petitioner further points out the decision of the Supreme Court in ***Javed Gulam Nabi Shaikh v. State of Maharashtra AndAnr***, CrI.A. 2787/2024 where in similar circumstances, accused was under trial for 4 years and charges had not yet been framed, the Supreme Court made observations which are as under:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the



nature of the crime.”

7. In light of the above, in the opinion of this Court, since charges have not yet been framed, which itself would be in question, considering the submissions recorded above, it would not be prudent to keep the petitioner behind bars for an indefinite period. This Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner 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 Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide a permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner will mark presence physically/virtually before the concerned I.O. fortnightly, every alternate Friday at 4 pm, and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution



witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

8. 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 merits of the matter.

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

10. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 11, 2024/sm