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

% **Date of Decision: 10.05.2024**

+ **BAIL APPLN. 1664/2024**

ARVIND

..... Petitioner

Through: Mr. Man Singh Chauhan,  
Advocate

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Manoj Pant, APP for the  
State with Ms. Heena George,  
Mr. Ranbir Singh, Advocates  
and Inspector Manoj, P.S.  
Shalimar Bagh, Delhi

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

### **JUDGMENT**

#### **SWARANA KANTA SHARMA, J. (Oral)**

1. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the applicant/accused seeking anticipatory bail in case arising out of FIR bearing No. 164/2024 registered at Police Station Shalimar Bagh, North-West, Delhi for offences punishable under Sections 302/323/34 of the Indian Penal Code, 1860 ('IPC').
2. Issue notice. Mr. Manoj Pant, learned APP accepts notice on



behalf of the State.

3. Briefly stated, the facts of the present case are that on 27.03.2024, a PCR call had been made by the complainant regarding a quarrel which had been received *vide* DD No. 78A, after that the police officials had reached the place of incident and had found that the injured had been taken to BJRM Hospital. Thereafter, the police officials had reached the concerned hospital and had come to know that the injured person had been declared brought dead by the concerned doctors. The police officials had then recorded the statement of the complainant i.e., Shri. Gyani Ram and had then lodged the present FIR. Further, during the course of investigation, other accused persons had also been arrested and they had disclosed their involvement and had also named the present applicant/accused who had also been involved in the alleged incident. It had further been disclosed that the present applicant/accused had caught the deceased i.e., Shivam from behind and one Harish i.e., the co-accused had then attacked the deceased with a sharp object i.e., ice breaker ( '*sua*' ) on the chest which had caused his death.

4. Learned Counsel appearing on behalf of the applicant/accused argues that the applicant has been falsely implicated in the present case. It is further submitted that the IO's inconsistent statement and misinterpretation of primary evidence suggests his malicious intent to falsely implicate the present applicant. It has been further argued that the prosecution has wrongly relied upon the statements of witnesses and has wilfully disregarded the CCTV footage which is clearly in support of the present applicant. As, in the said footage it can be seen



that the present applicant/accused was just holding the motorcycle of one Pawan and Sunil at the spot of the incident. It is also submitted that the applicant has no prior criminal record and that he is willing to fully cooperate with the investigation as and when called by the investigating officer. It is therefore, prayed that the applicant herein be enlarged on anticipatory bail.

5. *Per contra*, Learned APP for the State, strongly opposes the present anticipatory bail application and argues that the name of the present applicant/accused has been categorically mentioned in the FIR and further the statements of witnesses recorded under Section 161 Cr.P.C. support the case of the prosecution. Further, the applicant/accused is clearly visible in the CCTV footage collected so far. The offence is grave and serious in nature and has resulted in death of a person. It is further submitted that the investigation in the present case is at an early stage, custodial interrogation of the present applicant/accused is crucial to ascertain his role and involvement in the alleged offence. Thus, the present anticipatory bail application be dismissed.

6. This Court has heard arguments addressed on behalf of learned counsel for the applicant/accused as well as learned APP for the State and has perused the material on record.

7. As per the records, it is the case of the prosecution that on 25.03.2024, the complainant i.e., Shri Gyani Ram had been sitting in front of his house and at that time one Golu allegedly influenced by alcohol, along with his friends had come to the house of the complainant. It is further alleged that Golu had asked one Vicky i.e.,



the nephew of the complainant, to give him his T-shirt to play Holi. Further, as alleged his nephew had denied to give Golu his T-shirt and upon refusal another boy who had been accompanying Golu i.e., Suresh had abused complainant's nephew Vicky. It is further alleged that Shivam i.e., the deceased herein was standing nearby and upon seeing Suresh abuse his brother Vicky he had slapped Suresh and further altercations had started. However, as alleged with the intervention of the complainant both Golu and Suresh had gone back. After sometime, as per the allegations Golu had come back to the complainants house and had threatened the complainant that his son i.e., Shivam has not done the right thing by slapping Suresh and that now they be ready to face dire consequences. Thereafter, as per the allegations on 27.03.2024 at around 8:00 PM complainant's nephews Sunil and Pawan had gone to the market to purchase some goods. Further, as alleged the niece of the complainant i.e., Ms. 'S' had informed the complainant that a quarrel had been taking place with Sunil and Pawan, outside in the street. Upon being informed about the same, complainant along with his other son Aman, his younger brother i.e., Khoob Karan had rushed to the place of incident. As per the allegations, upon reaching the place of incident the complainant had seen Golu, Suresh, Harish, Rohit, Arvind i.e., the present applicant/accused and Suman mercilessly beating his son i.e., Shivam/deceased, Sanjay and his nephews Sunil and Pawan. Furthermore, as per the allegations until the complainant could interfere and stop the altercations between both the sides, he saw his son i.e., Shivam being stabbed in the chest with a sharp object



prompting Shivam to fall down. Thereafter, the complainant had rushed to help his son Shivam but he was kicked by one Harish i.e., the co-accused and had been told that they had taken the revenge of the insult. Pursuant to the same, FIR was lodged on 28.03.2024 at about 3:30 AM.

8. Further during the course of investigation other co-accused persons have named the present applicant/accused being involved in the commission of the alleged offence and have also revealed that the present applicant/accused had been holding the deceased Shivam while the other co-accused i.e., Harish had stabbed Shivam which had caused his death. Further, the applicant/accused is visible in the CCTV footage from the beginning of the quarrel and till the end of the quarrel.

9. This Court also takes note of MLC bearing No. 247859 whereby the concerned doctor has noted '*A/H/O physical assault as told by B/B. pt. came in emergency casualty in Drowsy & gasping state. L/E 2 small punctured wound + over chest (i) 0.5 X 0.5 Cm (Lt) side of the chest just medial to (Lt) Nipple Area Comploo, (ii) 0.5 X 0.5 Cm approx. punctured wound + around 5-6 cm medial & below (Lt) Nipple Area Comploo and Nature of injury "OR".* Further, this Court notes that a part from the deceased two more persons had been injured by the co-accused persons.

10. Thus, considering the overall facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the present applicant/accused as his custodial interrogation is required to ascertain his role in the incident. Since, the investigation in the



present case is at a nascent stage.

11. Accordingly, the present application stands dismissed.
12. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.
13. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**MAY 10, 2024/ns**