



\$~1

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

+ **BAIL APPLN. 1689/2024**

SATISH ALIAS PAPPU ALIAS LAMBUPetitioner

Through: Mr. Vishesh Wadhwa, Ms. Swadha Gupta, Ms. Shubhangi Singh, Advocates.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Yudhvir Singh Chauhan, APP for the State.
Insp. Santosh Kumar, PS Kashmere Gate

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
22.08.2024

%

1. The Petitioner has approached this Court for grant of regular bail in FIR No.149/2020 dated 10.07.2020, registered at Police Station Kashmere Gate for offences punishable under Sections 302/34 IPC.
2. The facts of the case reveal that the present FIR was registered on 10.07.2020 at Police Station Kashmere Gate on the information received *vide* DD No.14A dated 10.07.2020 regarding a murder of one Anil. During the investigation of the case, two accused persons i.e., the Petitioner herein and one Karan were arrested. The dead body of the deceased was found on the morning of 10.07.2020. It is stated that on the evening the beat constable disclosed that the deceased was last seen with the two accused persons i.e., the Petitioner herein and one Karan. The Petitioner was arrested on 10.07.2020 and has been in incarceration since 10.07.2020.

BAIL APPLN. 1689/2024

Page 1 of 4



3. Chargesheet has been filed. The trial has commenced and out of a total of 19 witnesses, 7 witnesses have been fully examined while 2 witnesses have been partly examined.

4. Learned Counsel appearing for the Petitioner contends that the case is completely based on circumstantial evidence. He states that the case is only based on a last seen theory of the beat constable who has already been examined. He states that there is no eye witness in the present case and all other witnesses are formal in nature. He, therefore, states that the Petitioner should not be left languishing in custody further and should be released on bail.

5. *Per contra*, learned APP appearing for the State vehemently opposes the bail application of the Petitioner by contending that the offence is heinous and there is a likelihood that the Petitioner will be awarded with death penalty. He states that the Petitioner was staying on footpath. He states that the Petitioner does not have an address and he is a vagabond. He states that in view of the fact that the Petitioner does not have an address and he is a vagabond and the Petitioner is likely to be awarded death penalty, the chances of the Petitioner fleeing from justice cannot be ruled out.

6. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Apex Court has laid down the parameters for granting or refusing bail to an accused and the same reads as under:

“i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

ii. nature and gravity of the accusation;

iii. severity of the punishment in the event of



conviction;

iv. Danger of the accused absconding or fleeing, if released on bail;

v. character, behavior, means, position and standing of the accused;

vi. Likelihood of the offence being repeated;

vii. Reasonable apprehension of the witnesses being influenced; and

viii. Danger, of course, of justice being thwarted by grant of bail.”

7. The present case is of an offence punishable under Section 302 IPC which is a very heinous offence. However, applying the aforesaid parameters to the facts of the present case and considering the fact that the case is purely based on circumstantial evidence, the beat constable, on whose last seen theory the Petitioner was arrested, has already been examined and other witnesses are only police witnesses and other evidence like forensic report etc. are already in the custody of the Court, this Court is inclined to grant regular bail to the Petitioner, subject to the following conditions:

- i. The Petitioner shall furnish a security in the sum of Rs.5,000/- with two sureties of the like amount to the satisfaction of the Trial Court/Magistrate/Duty Magistrate.
- ii. The Petitioner is directed to give an address, where he will reside during the trial, to the Trial Court and to the Investigating Officer (IO). The Investigating Officer is directed to verify the address



- given by the Petitioner. The Petitioner is directed not to change the given address without informing the Investigating Officer.
- iii. The Petitioner is directed to provide all the mobile numbers to the I.O. and keep them operational at all times.
 - iv. The Petitioner shall not leave the NCT of Delhi without the permission of the Trial Court.
 - v. The Petitioner is directed to report to the concerned Police Station thrice in a week, i.e., every Monday, Wednesday and Friday at 10:00 AM and he shall be released by 10:30 AM after completing all the formalities.
 - vi. The Petitioner is directed not to tamper with the evidence.
 - vii. The Petitioner is directed to appear before the Trial Court on all dates of hearings without fail.
 - viii. Violation of any of the aforesaid conditions shall lead to cancellation of bail granted to the Petitioner by this Court.
8. With these observations, the bail application is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 22, 2024

S. Zakir