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

+ **BAIL APPLN. 1691/2024**

ANIL

.....Petitioner

Through: Ms. Dolly Sharma, Advocate.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, Additional
Public Prosecutor.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

30.09.2024

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1. The instant bail application under Section 439 read with Section 482 of Code of Criminal Procedure, 1972 ("Cr.P.C." hereinafter) has been filed on behalf of the petitioner/accused seeking regular bail in FIR No.266/2017, Police Station-Jaitpur under Section 302/34 Indian Penal Code, 1860 ("IPC" hereinafter).

2. The brief facts of the present case are as follows:-

(a) On 1st May, 2017, a PCR call vide DD No. 40A was received at Police Station – Jaitpur regarding some quarrel near Umesh Cable Wala, A – block, Madanpur Khadar Extension and upon receiving the said call, ASI Haroon along with Constable Ganga Ram reached the spot, i.e., Gali No. 1, A Block, Kachchi Colony, Behind Babloo Dairy, where many people were gathered and one motorcycle having registration no. DL3SBZ4044 Honda Stunner (red and black colour) was found in damaged condition.

(b) Thereafter, the crime team, was called at the spot for inspection



was done, and photographs were taken. During the inquiry, statement of eye witness namely Mr. Niras Ali was recorded wherein he stated that on 1st May, 2017, at around 7:00 PM, Mr. Jitender @ Jeete, Mr. Anil (petitioner herein), Mr. Jahrul (victim) and several others were playing cards in A – Block, Gali No. 1, behind Babloo Dairy in an empty plot. It was stated by Mr. Niras that when Mr. Jahrul asked Mr. Jeete for his money, Mr. Jeete got angry and started a quarrel with Mr. Jahrul after which Mr. Jeete called two men who arrived on the abovementioned motorcycle. During the scuffle Mr. Niras heard Mr. Jeete and his men stating that they will kill Mr. Jahrul and then one Mr. Anil (present at the spot) hit Mr. Jahrul on his head with a brick. Thereafter, Mr. Niras called for help and upon seeing the crowd, the petitioner along with the others ran from the site.

(c) Subsequently, the injured namely Mr. Jahrul was shifted to the hospital and accordingly, a case under Section 07/341/34 of the Indian Penal Code, 1860 (“IPC” hereinafter) was registered. During investigation, accused persons namely Mr. Jitender @ Jeete and Mr. Anil Kapasiya were arrested in the present case. Mr. Jeete disclosed that he had called Mr. Ashutosh @ Ashu and Mr. Pradeep Kumar on the spot. Thereafter, on 3rd May, 2017, other accused persons namely Mr. Pradeep and Mr. Ashutosh were also arrested. On 4th May, 2017, information was received from Safdarjung Hospital stating that the victim namely Mr. Jahrul died during the course of treatment. Thereafter, the Section 302 of the IPC was added in the abovementioned FIR. Thus, the present petition.

3. Learned counsel appearing on behalf of the petitioner submitted that



the other co-accused, namely, Mr. Pradeep and Mr. Ashutosh have already been granted bail *vide* order dated 2nd February, 2024 in BAIL APPLN. No.4302/2024 and 9th February, 2024 in BAIL MATTERS No.358/2024, respectively.

4. It is submitted that as per the FIR, similar role has been ascribed to all the accused persons. It is also submitted that the co-accused, Mr. Jeete asked for money from the deceased and on the said pretext, the quarrel had taken place between both of them in the spur of the moment. It is submitted that during the altercation, Mr. Jeete had called two of his friends who reached the spot.

5. Learned counsel appearing on behalf of the petitioner submitted that all the public witnesses have been examined and except the complainant, all have turned hostile. It is further submitted that there is no criminal antecedent of the petitioner. It is submitted that a small piece of brick was recovered from the petitioner and he is languishing in jail since 2017, however, during this period he was out of jail for two and a half years during Covid pandemic.

6. It is submitted that since 2018, the trial is at the stage of Prosecution Evidence and is going to take time for its conclusion, hence, no purpose would be served by keeping the petitioner in jail. It is also submitted that the Hon'ble Supreme Court in ***Dharampal Vs. State of Haryana, 1978 (4) SCC 440*** has held that there is no law which lays down that a person accompanying the principal culprit shares his intention in respect of every act which the latter might eventually commit. Learned counsel appearing on behalf of the petitioner submitted that the petitioner shall abide by all the terms and conditions as may be imposed by this Court while granting bail,



and prays that the relief may be granted as prayed for.

7. *Per contra*, learned APP appearing on of the State vehemently opposed the instant bail applicaton and submitted that the other co-accused persons, who have been enlarged on bail, have different role and the petitioner cannot claim parity with them, but he has not contradicted the fact that the petitioner does not have any criminal antecedent as well as he is languishing in jail since 2017, and the weapon used is a small piece of brick. He also prayed that the matter may be heard after conclusion of the evidence of formal witnesses and undertakes on instructions that all formal witnesses shall be examined expeditiously.

8. Heard the learned counsel appearing on behalf of the parties and perused the contents made in the FIR as well the other documents on record.

9. It is an admitted fact that the quarrel had taken place in the spur of the moment at the spot where the deceased and co-accused Mr. Jeete were gambling. It is also an admitted fact that there is no criminal antecedent of the petitioner and all the public witnesses, except the complainant, have turned hostile. Therefore, this Court is of the view that no purpose would be serve by keeping the petitioner in jail as he has already spent a considerable amount of time therein.

10. Keeping in view the aforesaid facts and circumstances of the case, this Court is inclined to grant regular bail to the petitioner. It is accordingly directed that the petitioner be released on regular bail on his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties of like amount to the satisfaction of the Jail Superintendent/ learned Trial Court subject to the conditions as follows:-

(a) he shall under no circumstances leave India without prior



- permission of the Court concerned;
- (b) he shall appear before the learned Trial Court as and when required;
 - (c) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - (d) he shall provide his mobile number(s) and keep it operational at all times;
 - (e) he shall commit no offence whatsoever during the period he is on bail;
 - (f) in case of change of residential address and/or mobile number, the same shall be intimated to the learned Trial Court by way of an affidavit; and
 - (g) he shall report to the jurisdictional Police Station of Jaitpur on 15th day of every calendar month.
11. Accordingly, the petition stands disposed of. Pending applications, if any, stands dismissed.
12. Copy of this order be sent to Jail Superintendent for compliance.
13. It is made clear that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not construed as an expression of final observation in the proceedings pending before the learned Trial Court.

CHANDRA DHARI SINGH, J

SEPTEMBER 30, 2024
NA/ryp

Click here to check corrigendum, if any