



2024:DHC:6408



\$~118

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 21st AUGUST, 2024IN THE MATTER OF:+ **BAIL APPLN. 1738/2024**

AKBAL ANSARI

.....Petitioner

Through: Mr. M.L. Yadav, Mr. Harish Chand
and Mr. Anant Chittoria, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manjeet Arya, APP for the State.
SI Manish Tyagi, PS Govind Puri**CORAM:****HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****JUDGMENT**

1. The Petitioner has approached this Court for grant of bail in FIR No.474/2022 dated 07.07.2022 registered at Police Station Govindpuri for offences under Section 302, 201, 120B & 34 IPC read with Section 27 of the Arms Act.
2. Material on record indicates that information *vide* DD No.100A dated 06.07.2022 was received at Police Station Govindpuri from Majidia Hospital informing that some persons have brought a patient. The caller informed that the patient is an accident victim but it looks like a murder. Another information *vide* DD No.104A dated 06.07.2022 was received from Majidia Hospital regarding MLC No.294/2022 of the patient, namely, Sanjeev Kumar S/o Prakash Chand, R/o DDA Flats, Kalkaji, Delhi aged 45 years was declared brought dead with gunshot injuries.



2024:DHC:6408



3. It is stated that the Investigating Officer along with the staff immediately reached the hospital and collected the MLC of the deceased Sanjeev Kumar, who was admitted by his wife Geeta @ Najma.
4. The statement of Geeta @ Najma, wife of the deceased, was recorded. In the statement, she stated that she along with her husband and son were coming back to her home from the vegetable market on his motorcycle bearing registration No. DL 3SEC 6308 and that when they reached near Deepalaya School, B-Block, Transit Camp, Govindpuri, Delhi, she heard some sound like bursting of cracker and her husband fell down.
5. On the said statement of Geeta @ Najma, the present FIR being FIR No.474/2022 dated 07.07.2022 was registered at Police Station Govindpuri for offences under Section 302 IPC read with Section 27 of the Arms Act.
6. Investigation commenced. CCTV footages of the spot were checked. CDRs of the mobile phones of the deceased, his relatives and friends along with the suspects were obtained. The mobile handset of the wife of the deceased Najma @ Geeta was taken and it was found that she had shared the motorcycle number of the deceased on 05.07.2022 and the said photo was deleted which was retrieved from the deleted folder of her mobile phone.
7. A doubt was raised as to why the said Najma @ Geeta, wife of the deceased, had taken the photo of her husband's motorcycle number plate. On detailed investigation, Najma @ Geeta admitted that she got her husband murdered through a contract killer in which the first wife of the deceased, namely, Geeta and her daughter were also involved. She also disclosed the name of the Petitioner and the contract killer, Nayum Ansari.
8. On the said statement, both the wives of the deceased Najma @ Geeta and the second wife, who is also named Geeta and her daughter, Komal,



2024:DHC:6408



were arrested.

9. It was revealed that the deceased used to beat the Complainant, i.e., Najma @ Geeta and used to keep a watch on her. It is stated that both the wives of the deceased got together and along with accused Komal, who is the daughter from the first wife, hatched a plan to kill the deceased and to divide his properties among their children.

10. Investigation reveals that the first wife Geeta provided mobile phone and SIM card through her daughter to the Complainant/second wife, namely, Najma @ Geeta, who kept the mobile phone at the neighbour's house so that it can be hidden from the deceased.

11. The mobile phone was recovered. The CDRs of the mobile phone reveal that the mobile phone was used by her to contact the Petitioner for arranging a sharp shooter for killing her husband. It is stated that accused Nayum had fixed the deal of over Rs.30 lakhs for the killing.

12. Investigation reveals that accused Komal and her mother Geeta, first wife of the deceased, had transferred Rs.20,000/- as advance to the bank account of Nayum Ansari for arranging a weapon.

13. On 05.07.2022, Najma @ Geeta took the photographs of the number plate of the motorcycle of the deceased and shared it with the accused Komal, daughter of the first wife, for onward transfer to Nayum Ansari for identification of the deceased which she had deleted from her phone.

14. The information that Najma @ Geeta would go along with the deceased to the market in the evening at about 6-7 PM on 06.07.2022 was shared and the deceased Sanjeev Kumar was shot.

15. Investigation further reveals that the mobile phone of the deceased was checked by the Investigating Officer and it was found that the deceased



2024:DHC:6408



had sent the photographs of Nayum Ansari through Whatsapp to his brother-in-law Haider, who is the cousin of Najma @ Geeta.

16. Material on record also indicates that the said Haider had informed the deceased that Nayum Ansari was planning to kill him. It is stated that when Najma @ Geeta was interrogated in this regard, the deceased had some doubts on her and had come to know about Nayum Ansari, so the deceased sent the photographs of Nayum Ansari to Haider to enquire about him. Nayum Ansari was arrested on 12.07.2022 and the Petitioner herein was arrested on 18.07.2022.

17. In his disclosure statement, Nayum Ansari had stated that he was introduced to the wives of the deceased by the Petitioner and the deal for killing the deceased was struck between them and they were to be paid Rs.30 lakhs. Chargesheet has been filed.

18. Learned Counsel for the Petitioner states that the Petitioner is in custody since 18.07.2022. He states that the so-called contract killer Nayum Ansari and the Petitioner belong to the same village and they were in touch with each other for the last one year as they belong to the same village. He states that other than disclosure statements, which are not admissible in law and the CDRs, there is nothing on record to show the complicity of the Petitioner. He states that the value of CDRs showing that the Petitioner was in touch with Nayum Ansari who belong to the same village can be evaluated at the time of trial. He also states that there are only official witnesses and there is no danger of the Petitioner tampering with the evidence. He, therefore, states that two years have passed and examination of the witnesses has yet not commenced and the possibility of the trial concluding in the near future is remote, therefore, the Petitioner may be



2024:DHC:6408



enlarged on bail.

19. *Per contra*, learned APP for the State opposes the bail application by taking this Court through the chargesheet to contend that the Petitioner was in touch with Nayum Ansari from 01.08.2021 to 09.07.2022 and there are 73 calls between them. He also states that there are 39 calls between the Petitioner and Najma @ Geeta. He also states that the Petitioner was in touch with the co-accused, Komal, who is the daughter of the deceased from the first wife. He states that the CDRs are enough to establish the complicity of the Petitioner in the crime. He also contends that the Petitioner does not belong to Delhi and if he is granted bail, the Petitioner will flee from justice.

20. From a perusal of the material on record, it is clear that the arrest of the Petitioner was primarily based on the disclosure statement of the co-accused. No money trail has been established to connect the Petitioner to the crime. The gun is yet to be recovered. All witnesses are only official witnesses and therefore there is no danger of the Petitioner tampering with the evidence and influencing the witnesses.

21. 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



2024:DHC:6408



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.”

22. Applying the law laid down by the Apex Court to the present case, this Court is of the opinion that CDRs and disclosure statements are the only material which connects the Petitioner with the crime. Conviction cannot be based solely on the basis of the confessional statements of co-accused. [Refer to: Toofan Singh v. State of Tamil Nadu, **2021 (4) SCC 1**].

23. CDRs would be analysed during the trial. The Court cannot lose sight of the fact that Nayum Ansari is the contract killer and the Petitioner belongs to the same village and there are only 39 calls in the last one year. The Petitioner has been in touch with his sister Najma @ Geeta and there are about 39 calls between them. The fact that the Petitioner does not have permanent address in Delhi alone is not sufficient to deny bail to the Petitioner. There is no possibility of tampering with the evidence as only official witnesses are left to be examined.

24. In view of the above, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

- i. The Petitioner shall furnish a security in the sum of Rs.1,00,000/- with two sureties in the like amount to the satisfaction of the Trial



2024:DHC:6408



Court.

- ii. The Petitioner is directed to arrange an accommodation in Delhi where he will reside and give address to the Trial Court and to the I.O. The Trial Court is directed to verify the said address before according its satisfaction. The Petitioner is directed not to change the said 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 city of Delhi without the permission of the Trial Court.
 - v. The Petitioner is directed to report to the concerned Police Station thrice a week, i.e., every Monday, Wednesday and Friday at 10:00 AM and he shall be released by 11:00 AM after completing all the formalities.
 - vi. The Petitioner is directed not to tamper with the evidence or influence any witnesses.
 - 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 by this Court.
25. With these observations, the bail application is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 21, 2024

hsk