



\$~12

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

+ **BAIL APPLN. 2528/2023**

AJAY KUMAR@ILLU

..... Petitioner

Through: Ms.Dolly Sharma, Advocate

versus

STATE

..... Respondent

Through: Mr.Aashneet Singh, APP for State with
SI Yogender

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

22.02.2024

%

1. By way of present application filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C., the petitioner/applicant seeks regular bail in FIR No. 482/2015 registered under Section 302/307/34 IPC at P.S. Anand Parbat, Delhi.

2. Learned counsel for the applicant submits that the applicant has been in custody since 17.07.2015 and that all material prosecution witnesses have already been examined. She further submits that the present FIR came to be registered on the statement of *Smt. Usha Devi*, mother of the deceased, who stated that on the day of the incident, her daughter *Meenakshi @ Alka* had gone to the market in the evening and while she was coming back home, *Jaiprakash @ Shanni* the co-accused attacked her with a knife and also kicked her. When the complainant's daughter reached home, she enquired from her and was told about the stabbing and beatings by the co-accused,



Jaiprakash @ Shanni. When the complainant went out, she saw *Jaiprakash @ Shanni* standing near her house and when she asked him about the incident, he stabbed the complainant on her left arm and also on her back. She took her daughter to the hospital where she later succumbed to her injuries. Three days later, the complainant introduced the name of the present applicant as a co-accused, by alleging that the applicant had also given fist blows and kicks to her daughter. She submits that the complaint (mother of the deceased) has already been examined and has also been confronted on the aforesaid aspect. She further submits that prosecution had cited 3 independent witnesses namely PW-3, PW-4 and PW-12, who have already been examined and have not supported the case of the prosecution. Lastly, it is submitted that the applicant is not involved in any other case.

3. Learned APP for the State has vehemently opposed the bail application. He submits that the name of the applicant has figured in the investigation and that another eyewitness cited as PW-5 has supported the prosecution case. He further submits that PW-5, in her testimony, has also stated that she was receiving threats from the accused persons. He however, on instructions, submits that no enquiry has been made on the aforesaid aspect.

4. I have heard the learned APP for the State as well as learned counsel for the applicant and have also gone through the material placed on record.

5. It is noted that PW-5 was examined way back in 2018 and all the other material witnesses have already been examined. Further, the role assigned to the present applicant is that of giving fist blows and kicks. As per the prosecution case, it was the co-accused *Jaiprakash @ Shanni* who had inflicted stab injuries on the deceased. As per the postmortem report, the



death was on account of stab injury No.3. It however, does not reflect injuries on account of fist blows and kicks, which could have added to the fatal injuries. It is also informed that the remaining witnesses are only formal in nature.

6. At this stage, learned counsel for the applicant submits that upon release, the applicant will not live in the vicinity of the house of the complainant and will furnish fresh address at the time of furnishing the bail bonds.

7. Keeping in view the aforesaid facts and circumstances including the fact that the applicant has been in custody since 17.07.2015 and the role assigned to the applicant as well as the fact that all the material witnesses have been examined, the applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of like amount to the satisfaction of the concerned Jail Superintendent/Duty M.M./Trial Court and subject to the following further conditions:-

- (i) The applicant shall not leave the NCT of Delhi without prior permission of the concerned Court.
- (ii) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial. He shall also furnish fresh address where he will stay.
- (iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned IO as well as to the concerned Court.
- (iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses



or tamper with the evidence.

(v) The applicant shall not enter the jurisdiction of P.S. Anand Parbat during the pendency of the trial.

(vi) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

8. The application stands disposed of in the above terms.

9. Copy of this order be communicated electronically to the concerned Jail Superintendent for information.

10. Copy of this order be uploaded on the website forthwith.

11. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the observations are only for the purpose of the disposal of the present application.

DASTI

MANOJ KUMAR OHRI, J

FEBRUARY 22, 2024

na