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

+ **BAIL APPLN. 1842/2024**

AVNISH

.....Petitioner

Through: Mr. Nitin Saluja, Ms. Simran Khuran,
Mr. Nischal Tripathi and Ms.
Sanskriti Bansal, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ashneet Singh, APP for State
with Inspector Rajveer Singh and
Inspector Sunny Kumar PS Rajinder
Nagar, New Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.07.2024

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1. By way of present application, the petitioner/applicant seeks regular bail in FIR No. 10/2016 registered under Sections 302/396/120B/201 IPC at P.S. Rajinder Nagar.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and has been in custody since 12.01.2016. It is stated that the applicant was aged about 18 years at the time of commission of offence and even as per the prosecution case, the only assigned to the application is of being outside the house at the time of the incident. Further, it is argued that there are several material contradictions and improvements in the statement of the prosecution witnesses and even *Mohd. Arif (PW-29)*, the owner of the *Pappu Dhaba*, who had identified the applicant and co-accused *Raju* as the individuals who had come to the dhaba to fetch chapatti, has been declared hostile, as he refused to identify both of



them in court.

Lastly, it is stated that though charges were framed on 18.02.2022, however, till date only 33 out of 52 witnesses have been examined and that the trial is likely to take a long time. It is also submitted that the applicant has clean antecedents.

3. Learned APP for the State, on the other hand, has opposed the present application. He submits that the present case was registered on 10.01.2016 upon a PCR Call reporting about a child and lady lying unconscious and whose hands were tied. When the crime team reached the spot, a total of 3 dead bodies were found inside the house. As per the postmortem report, the doctor has opined that the cause of death was Asphyxia as a result of ligature strangulation (qua deceased *Sanjay Kumar*), Asphyxia as a result of combined effect of smothering and strangulation (qua deceased *Jyoti Kumar*), Asphyxia by strangulation by ligature (qua deceased *Pawan Kumar*).

It is submitted that the applicant alongwith the other co-accused were present at the house for the commission of dacoity and a sum of Rs. 46,000/- alongwith certain other articles was looted. Further, as far as the present applicant is concerned, an amount of Rs.3,900/- has been recovered out of Rs.5,000/- (share of the looted amount of the applicant) and a blue colour jacket, which petitioner was wearing at the time of commission of the offence has also been recovered. It is further stated that the motorcycle used at the time of commission of the offence has also been recovered at the instance of the applicant. Further, the CDR of the mobile phone of the applicant shows that the applicant was in constant touch with the other accused persons.



It is further stated that one witness has since expired and another one has been dropped.

4. I have heard learned counsel for the applicant as well as learned APP for the State and have also gone through the material placed on record. It is clear that while the initial motive of the accused persons was to commit dacoity, however, subsequently, the incident of triple murder took place. As per the prosecution case, the accused persons robbed certain jewellery, house articles, watches and documents alongwith Rs.46,000/-. Of the aforesaid robbed items, an amount of Rs.3,900/- (stated to be out of the robbed amount of Rs.46,000/-) as well as the motorcycle (used at the time of commission of the offence) has been recovered from/at the instance of the applicant. Further, the call records of the applicant and the relevant transcript, which has been placed on record, clearly shows that the applicant was in constant touch with the other accused persons.

5. Considering the gravity of the act/offence committed i.e. triple murder as well as the fact that a recovery has been effected at the instance of the applicant coupled with the fact that the offence took place during the commission of dacoity, I find no ground to entertain the present application. Accordingly, the application is dismissed.

6. The FIR relates to the year 2016 and the case is still at the stage of prosecution evidence. The trial court shall make an endeavor to expedite the trial and conclude the same within one year from the next date of hearing.

MANOJ KUMAR OHRI, J

JULY 8, 2024/rd