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

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Reserved on: 04.03.2024
Pronounced on: 12.03.2024

+ **BAIL APPLN. 2771/2023**

MOHD QASIM MANSOORI Applicant

Through: Mr. Tarun Gautam, Advocate
 versus

THE STATE OF DELHI Respondent

Through: Mr. Manoj Pant, APP for State
 with SI Suresh Kumar, P.S.
 New Usmanpur, Delhi.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 709/2018, registered at Police Station New Usmanpur, Delhi for the offence punishable under Section 302 of the Indian Penal Code, 1860 ('IPC').

2. The case of the prosecution is that on the intervening night of 06/07.09.2018, on receipt of DD No.19B at about 4:45 AM regarding



a person being stabbed on the neck, police had reached the spot, however, no eye witness was found at the spot. During investigation, it was revealed that the injured had been taken to JPC Hospital, and when the I.O. had reached JPC Hospital, he was informed that injured, whose throat had been slit, had passed away. During investigation, it was also revealed that the deceased had been brought dead to the casualty by Saqib Tehrir. The IO had also found eye witness Mustaqin. Mustaqin had informed the police that on the date of incident, at about 4:00 AM, when he along with Wasim and Saqib who work in Classic Travel, after finishing their work had started for home in an auto-rickshaw, at about 4:30 PM when the auto-rickshaw had reached Shastri Park, they had seen a young boy, who was carrying a bag was quarreling with another boy, who had signaled autorickshaw to stop. The auto-rickshaw driver had stopped the auto-rickshaw, and Wasim had got down from the auto-rickshaw and had tried to save the boy, who was carrying a bag and had asked him to sit in the auto-rickshaw. The person who was assaulting him had instead caught hold of Wasim and had asked him as to how dare he interfered in their business. Thereafter, he had taken out a long knife from his shirt with intention to kill Wasim and had given a blow with a knife on his neck, and the knife had pierced through Wasim's neck. Thereafter, he and Saqib had got down and had tried to apprehend the person, who had stabbed him. However, he had run away towards red light with the knife. Wasim had fallen down at the spot. They had then taken him in the auto-rickshaw along with the



person with whom the person who had stabbed Wasim was quarrelling with and had got him admitted in the Hospital where the doctor had declared him brought dead. He had given the description of the person who had assaulted him. The case was further investigated and the portrait of the accused was prepared as per description given by the witnesses. After post-mortem, the body of the deceased was handed over to his family. During further investigation, on receipt of information from the secret informer, present accused was apprehended. The present accused had made a disclosure statement that he was in the business of illegal supply of psychotropic substances and that on the date of incident, he himself was under influence of such drugs. He had made a plan of snatching from someone, and he was carrying a knife, and at about 4:15 AM, he had seen a person urinating on the footpath with a bag hanging behind him. He started quarrelling with him with intention to rob him of his money and his bag. That person had apologized to him, however, he had caught hold of him and in the meantime, an auto-rickshaw had stopped nearby and the person had started intervening in their dispute and they had tried to save the person with whom he was fighting. Since, he was angry that his only single victim found during the whole night was being tried to be saved, he had taken out a knife from his pocket and had stabbed the deceased with intention to kill him. The knife had gone through the boy's neck and two boys had got down from the TSR and had tried to catch him. However, he had somehow reached home and hidden the knife behind the batteries



of inverter as well as his clothes and shoes. Later on, he had come to know that the boy had died. Pursuant to his disclosure, a search of his home was conducted. A black shirt with white print. and a blue pair of jeans were found, which he was wearing at the time of incident. The sports shoes were also recovered at the instance of the accused. The knife with which the deceased had been killed was also recovered at the instance of the applicant herein. He had also pointed out the place of incident. He had however refused to participate in the TIP proceedings. The exhibits were sent to FSL and the FSL report was still awaited at the time of filing of charge-sheet.

3. Learned counsel for the accused has argued that the applicant herein is innocent and has been falsely implicated in this case. It is also argued that the accused had been arrested only on the basis of disclosure statement of the accused himself. It is also stated that since there is no admissible evidence on record to connect the accused with the alleged offence, therefore, he may be granted bail.

4. Learned APP for State, on the other hand, has stated that the recovery of the knife and the clothes that the accused was wearing at the time of incident was effected after the disclosure statement of the accused herein and that the FSL report supports the prosecution case. He further states that having regard to the facts of the case, the applicant is not entitled for grant of bail and the application be rejected.

5. This Court has heard arguments addressed on behalf of both the parties and has gone through the case file.



6. In the present case, this Court is of the opinion that in the postmortem report of the deceased, it has been specifically mentioned in the opinion that the death has been caused as a result of anti-mortem injury on the neck produced by double edged sharp weapon. The recovery of the knife was affected in the present case upon disclosure statement of the accused from his home.

7. The FSL report that has been now received as per the IO, and the same also supports the prosecution's case. As per FSL report, the blood DNA profile of the deceased had matched with the blood found on shoes and jeans recovered from the present accused and those of the other articles of the deceased. The witnesses have also supported the prosecution's case when they were examined before the learned Trial Court. The accused had also refused to participate in the test identification parade.

8. The present case is a case of brutal murder of a young man of about 22 years of age. In view of seriousness of the offence, the accused is not entitled to grant of regular bail at this stage.

9. Accordingly, the present bail application stands dismissed.

10. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 12, 2024/ns