



\$~36

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

+ **CRL.M.C. 4440/2024**

SUDESH GULKA ALIAS SUDESH JULKA

..... Petitioner

Through: Ms.Manveen Dhanjal,
Ms.Rajani & Mr.Akshay
Daniel, Advs.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Aman Usman, APP.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **28.05.2024**

CRL.M.A. 16820/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 4440/2024 & CRL.M.A. 16821/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the order dated 15.04.2024 passed by the learned Additional Sessions Judge (FTSC), POCSO Court-02, South-West District, Delhi, in SC No. 422/2020, titled *State v. Sudesh Gulka*, closing the right of the petitioner herein to lead Defence Evidence.

3. The learned counsel for the petitioner submits that on 05.03.2024, an adjournment was sought on her behalf as she had lost her grandfather and was not in a position to appear before the learned Trial Court. She submits that on 15.04.2024, an application under



Section 315 Cr.P.C. had been e-filed along with the list of witnesses, however, the same was not listed before the learned Trial Court, and consequently, the learned Trial Court closed the opportunity of the petitioner to lead the Defence Evidence. She submits that the costs imposed, has also been paid.

4. On the other hand, the learned APP points out that the first opportunity to lead defence evidence was granted to the petitioner on 28.11.2023, and though almost 6 months had passed, the petitioner did not file an application under Section 315 Cr.P.C., thereby intentionally causing a delay in the trial.

5. I have considered the submissions made by the learned counsels.

6. To grant a fair opportunity to the petitioner to lead his defence evidence, so that no prejudice is caused to the trial and to the petitioner, the Impugned Order dated 15.04.2024 is set aside, subject to payment of further costs of Rs. 15,000/- by the petitioner to be deposited with the *Delhi High Court Bar Clerk's Association* within a period of two weeks.

7. The learned counsel for the petitioner submits that the application under Section 315 of the Cr.P.C. along with the list of witnesses has already been filed before the learned Trial Court. The same shall be considered by the learned Trial Court in accordance with law. Furthermore, the petitioner is warned that any further request for an unwarranted adjournment, if made by the petitioner, shall be declined by the learned Trial Court and the petitioner shall not be entitled to the indulgence of the learned Trial Court in this regard.



8. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

MAY 28, 2024/rv/sj

Click here to check corrigendum, if any