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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2019/2024**
NARESH @ KHAJJUPetitioner

Through: Mr. Rajesh Pandey, Advocate.

versus

STATE OF NCT DELHIRespondent
Through: Mr. Amit Ahlawat, APP for State with
SI Deepak Sahu, PS: Pul Prahladpur.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
08.10.2024

1. This petition has been filed seeking regular bail in FIR No. 258/2017 under Sections 302/307/341/427/120-B/34 IPC, registered at PS Pul Prahladpur.
2. As per the case of the prosecution, on 12th December, 2017, information was received with a DD no. 37-A and 38-A regarding stabbing at Lal Kua Petrol Pump, Sunday Market, Pul Prahaladpur. Upon the police team reaching, it transpired that Rahul @ Doodha, had succumbed to injuries at ESI Hospital. Other injured persons, namely Tara Chand and Suva Lal, were admitted at Safdarjung Hospital.
3. Tara Chand was found fit for statement and he stated that about 7.30 p.m. he was sitting in his Brezza car at Peer Baba Chowk, near his home, when Rajesh Vanar and his associates, Danish @ Chintoo and Tinkle @



Mohan came and broke the glass tin of his car. They started beating him and threatened him as to why he had lodged the kidnapping case against Rajesh. When he made a hue and cry, family members of the complainant, including the deceased and other relatives came to rescue him and the persons ran away.

4. Later, Rajesh Vanar, Danish @ Chintoo and Tinkle @ Mohan came along with other accomplices with knives, rods and wooden sticks. It was stated that Tinkle @ Mohan caught hold of the deceased and Rajesh Vanar stabbed him in the left thigh.

5. The accused were arrested. Out of the accused, two were CCLs and proceedings were before the JJ board. A country made pistol was recovered at *Jhuggi* at the instance of Rajesh and also a *knife* was found.

6. At the instance of Danish @ Chintoo, a *knife* was also recovered. A black cap allegedly worn by Danish was also found at the place of incident. A *Pulsar* motorcycle was also recovered from the place of occurrence used by JCL and Danish. Injuries were opined as grievous and the cause of death as per the *post-mortem* report, was the result of injury no. 1.

7. Counsel for petitioner states that the petitioner has been in custody since 14th December 2017. As per the Nominal Roll, there are no previous involvements except for FIR no 143 /2017 under Sections 323, 341, 506 IPC PS Pul Prahladpur, in which he is on bail.

8. Counsel for the petitioner states that one of the main persons who had been named in the FIR was Danish @ Chintoo who had been granted bail by this Court on 29th July 2024 by a detailed judgment.

9. A perusal of the said judgment would show that despite several previous involvements of Danish @ Chintoo and his being named in the FIR, he was granted bail on account of prolonged custody and only 9 out of 36



witnesses having been examined. It was further noted in the said judgment that the witnesses had failed to identify Danish @ Chintoo.

10. Counsel for the petitioner draws attention of this Court to the FIR where the petitioner has not been named which was registered on 13th December 2017 only after 5 days in a statement recorded under 161 Cr.P.C. on 18th December 2017 of Tara Chand, statement has been made that petitioner had come with a *danda* as part of the group of assailants.

11. Counsel for the petitioner points out to the *post-mortem* report as per which, the injury no. 1 is an incised wound which is caused by a *knife*, of which the petitioner is not alleged to have wielded, as per the statement of Tara Chand.

12. Further, there has been no recovery from the petitioner of any weapon. APP for State states that there was recovery of a wooden plank from the petitioner. He further states that in the testimony of Tara Chand, allegations have been made against the role of the petitioner as well.

13. The Counsel for the petitioner draws attention to the Supreme Court's decision in ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Anr***, (2024) SCC OnLine SC 1963.

14. Considering that the petitioner has been in custody for 7 years now and that the trial is still to take time, the material witnesses have been examined and the principal accused Danish @ Chintoo being already granted bail by this Court, as well as certain doubts relating to the prosecution's case have been placed before the Court as noted above, the Court is of the opinion that petitioner is entitled to bail.

15. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for



an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner will mark presence physically before the concerned I.O. every Thursday at 4 p.m, and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.



16. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
17. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
18. '*Dasti*'
19. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
20. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 8, 2024/RK