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

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Reserved on: August 02, 2024

Decided on: August 16, 2024

+ **BAIL APPLN. 2020/2024**

DEEPAK DABAS

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate with Ms. Udit Bali, Mr. Karmanya Singh Choudhary and Mr. Lavish Chandra, Advocates

V

CENTRAL BUREAU OF INVESTIGATION

..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC with Mr. Kritagya Kumar Kait, G.P. with Mr. Daksh Gupta and Mr. Rohit Yadav, Advs.

CORAM

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

O R D E R

1. The petitioner/Deepak Dabas has filed the present bail application under section 439 read with section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “**the Code**”) seeking interim bail for a period of 03 months in FIR bearing



no.RC-06(S)/2021/CBI/SC-III/ND dated 10.09.2021 registered under sections 304/323/34 of the Indian Penal Code, 1860 (hereinafter referred to as “**IPC**”) at P.S. CBI/SC-III/New Delhi.

2. Briefly stated relevant facts are that the FIR bearing no.0451/2021 dated 09.08.2021 was got registered under sections 302/323/341/34 IPC at P.S. Hari Nagar against Narender Meena, the then Deputy Superintendent (Chakkar), Central Jail-3, Tihar Central Prison, New Delhi and other officials including the petitioner for committing murder of undertrial prisoner (hereinafter referred to as “**UTP**”) namely Ankit Gujjar and also causing injuries to two other UTPs. Ankit Gujjar was stated to have died due to haemorrhage consequent upon cumulative effect of multiple blunt force injuries sustained to the body on 03/04.08.2021. The relatives of UTP Ankit Gujjar i.e. his mother, sister and brother preferred writ petition W.P. (Crl.) 1558/2021 seeking transfer of investigation to CBI and this Court vide judgment dated 08.09.2021 transferred the investigation arising out of FIR bearing no.0451/2021 to CBI. Accordingly, FIR bearing no. 0451/2021 was again registered vide RC no.06(S)/2021/CBI/SC-III/ND under sections 302/323/341/34 IPC at P.S. CBI/SC-III/New



Delhi. The charge-sheet has already been filed on 02.07.2022 before the concerned court under sections 304/323/34 IPC and subsequently supplementary charge-sheet dated 15.09.2022 was also filed before the concerned court against 05 persons including the petitioner/Deepak Dabas, the then Assistant Superintendent, Tihar Central Prison, New Delhi.

3. The co-accused/Narender Meena preferred an application before the Principal District and Sessions Judge cum Special Judge (PC Act), Rouse Avenue Courts, New Delhi seeking transfer of the case to a different court which was ordered to be dismissed vide order dated 26.08.2023. The co-accused/Narender Meena preferred a Transfer Petition bearing no. TR.P. (CRL.) 112/2023 before this Court which was dismissed vide order dated 31.08.2023. The co-accused/Narender Meena preferred SLP (Crl.) no.12055/2023 before the Supreme Court to impugn order dated 31.08.2023 passed by this Court. The Supreme Court vide order dated 06.10.2023 ordered for issuance of notice to the respondents therein and directed the trial court to defer the proceedings against the co-accused/Narender Meena. The present petitioner was also arrayed



as respondent no.5 in SLP (Crl.) no.12055/2023 filed before the Supreme Court.

4. The petitioner/Deepak Dabas in bail application under consideration stated that the co-accused/Narender Meena, the then Deputy Superintendent (Chakkar), Central Jail-3. Tihar Central Prison, New Delhi as per the allegations was harassing the deceased UTP Ankit Gujar for money who was not able to satisfy the demands of the co-accused/Narender Meena and as a result of which the co-accused/Narender Meena and other jail staff brutally beaten the deceased UTP Ankit Gujar and did not provide proper medical attention him which led to his death on 04.08.2021. It was also alleged that the co-accused/Narender Meena was continuously harassing the deceased UTP Ankit Gujar and his cell mates namely Gurjeet @ Bobby and Gurpreet @ Badal after recovery of a mobile phone from the cell of deceased UTP Ankit Gujar. The said UTPs were directed to be shifted to Ward-1 on 03.08.2021 due to the recovery of prohibited articles and there was a scuffle between the deceased UTP Ankit Gujar and the co-accused/Narender Meena on the issue of shifting the deceased UTP Ankit Gujar to Ward-1 and



subsequently the deceased UTP Ankit Gujjar, along with Gurjeet @ Bobby and Gurpreet @ Badal, was brutally beaten by co-accused/Narender Meena and other jail officials which ultimately led to the death of the deceased UTP Ankit Gujjar. The petitioner/Deepak Dabas during investigation was also implicated on the allegations as detailed in the FIR initially registered at P.S. Hari Nagar and subsequently by the CBI.

5. The petitioner/Deepak Dabas is seeking grant of interim bail on the grounds that the trial before the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi is kept in abeyance due to order dated 06.10.2023 passed by the Supreme Court in SLP (Crl.) no.12055/2023 filed by the co-accused/Narender Meena and the trial is not progressing. The co-accused Harfool Meena and Vinod Kumar Meena were admitted to interim bail vide order dated 05.06.2023 passed in IA no. 9/2023 in SC no.1/2023 by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi. The petitioner/Deepak Dabas was also granted interim bail on the ground of parity on the conditions as imposed vide order dated 05.06.2023 passed in IA no.8/2023 in SC no. 1/2023.



6. The petitioner/Deepak Dabas filed another bail application bearing IA no.27/2023 in SC no.1/2023 titled as **CBI V Narender Meena & Others** which was ordered to be dismissed vide order dated 28.05.2024 passed by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi which is under challenge. The operative part of the impugned order dated 28.05.2024 reads as under:-

However keeping in view the gravity of offence and strong possibility of influencing and pressuring injureds and eyewitnesses on the part of the accused due to which they have approached the court for security and competent authority under Witness Protection Scheme is already seized of the matter, I am of the view that it is not a fit case to release him on interim bail. The delay in start of the trial is neither on the part of this court nor upon the prosecution. Apprehension of prosecution that accused along with other co-accused will influence the witnesses and tamper with the evidence, if released on bail are very strong and cannot be ignored. Accordingly, the interim bail application is hereby dismissed. It is clarified that nothing contained in this order will affect the merits of the case.

7. The respondent/CBI submitted a Status Report wherein besides mentioning the factual position of the case, also stated about the role of the petitioner/Deepak Dabas. It is stated that on the basis of statement of eye witnesses recorded during the investigation and other evidences, the role of the petitioner/Deepak Dabas is



established in beating the deceased UTP Ankit Gujjar. The polycarbonate lathis used to beat the deceased UTP Ankit Gujjar have been recovered from the store of Central Jail-3, Tihar Central Prison, New Delhi in presence of forensic experts after forensic examination and the blood traces on the said *lathis* contained DNA of the deceased UTP Ankit Gujjar and surviving victims/eye-witnesses stated that the petitioner/Deepak Dabas had actively participated in using criminal force against the deceased UTP Ankit Gujjar. It is also stated in the Status Report that the petitioner/Deepak Dabas was present at the scene of crime at Central Jail-3, Tihar Central Prison, New Delhi and that he was in-charge of Ward-5A. The petitioner/Deepak Dabas was present at Ward-1 while shifting the inmates as established by the entries made in In/Out Register of Ward-1. It is also stated in the Status Report that the victims/eye-witnesses have approached the trial court for their protection as they were receiving threats to change their statements. The witnesses are receiving and facing regular threats from the accused persons including the petitioner. It was prayed that the bail application be dismissed.



8. Sh. K. K. Manan, learned Senior Advocate for the petitioner primarily argued that the co-accused/Narender Meena had filed SLP before the Supreme Court to impugn the order dated 31.08.2023 passed by this Court in TR.P.(Crl.) 112/2023 seeking transfer of the case from the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi and the trial was ordered to be stayed vide order dated 06.10.2023 passed by the Supreme Court in SLP (Crl) no.12055/2023. It was further argued that the main accused/Narender Meena had already been granted interim bail on medical grounds and interim bail has been extended from time to time on account of stay of the proceedings by the Supreme Court. The petitioner was also granted interim bail vide order dated 05.06.2023 passed by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi. The petitioner/Deepak Dabas filed another bail application for grant of interim bail on the ground of marriage which was dismissed vide order 29.04.2023 passed by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi. The petitioner/Deepak Dabas did not manipulate any wedding card. The petitioner/Deepak Dabas never misused the liberty and



surrendered in time. The trial of the case arising out of RC no.06(S)/2021/CBI/SC-III/ND has been stayed since 06.10.2023 and the trial would take considerable time to conclude and the petitioner/Deepak Dabas is only seeking grant of interim bail. Accordingly, it was argued that the petitioner/Deepak Dabas be released on interim bail.

9. Sh. Anurag Ahluwalia, the learned Central Government Standing Counsel appearing on behalf of the respondent/CBI advanced detailed arguments and highlighted the role of the petitioner/Deepak Dabas in commission of the offence. It was submitted that the role of the petitioner/Deepak Dabas has been established in commission of crime as 04 eye-witnesses saw him beating the deceased UTP Ankit Gujar and also reproduced the relevant portion of the statements of the eye-witnesses i.e. Gurjeet @ Bobby and Gurpreet @ Badal. It was further argued that the polycarbonate lathis used to beat the deceased UTP Ankit Gujar have been recovered from the store of Central Jail-3, Tihar Central Prison, New Delhi in the presence of forensic experts after forensic examination which were found to be containing the blood traces matching with the DNA of the deceased



UTP Ankit Gujjar as well as surviving victims/eye-witnesses. Sh. Anurag Ahluwalia during the course of the arguments also referred the statements of Bhisam Singh (PW6) and Deepak Koli (PW7). It was also argued that the petitioner/Deepak Dabas does not satisfy the triple test as if the petitioner/Deepak Dabas is released on interim bail then there is high possibility that he would indulge in influencing the witnesses as reflected from the statement of the eye-witnesses. The eye-witnesses are yet to depose before the trial court and they have already filed an application before the Witness Protection Committee through prosecution as they are being threatened to change their statements by the accused persons including the petitioner/Deepak Dabas. If the petitioner/Deepak Dabas is released on interim bail, it may lead to influencing of the witnesses which may hamper the trial. Mr. Ahluwalia also argued that considering the gravity of the offence, the bail application is liable to be dismissed. It is further argued that the Supreme Court, vide order dated 06.10.2023, has only stayed the trial qua the co-accused/Narender Meena. It is argued that the bail application is liable to be dismissed.

10. It is appearing that FIR bearing no.0451/2021 was got registered



under sections 302/323/341 read with section 34 IPC at P.S. Hari Nagar on the allegations as stated in the FIR and subsequently the investigation was transferred to CBI in pursuance of order dated 08.09.2021 passed by this Court in W.P.(Crl) 1558/2021 and FIR bearing no. 0451/2021 was re-registered as RC no.06(S)/2021/CBI/SC-III/ND under sections 302/323/341/34 IPC at P.S. CBI/SC-III/New Delhi. The statements of the eye-witnesses/victims Gurjeet @ Bobby and Gurpreet @ Badal were recorded during the investigation besides recording of the statements of the other witnesses which are indicative of the involvement of the petitioner/Deepak Dabas in commission of alleged offences. The polycarbonate lathis which were recovered during the investigation also reflect that the blood traces found on the polycarbonate lathis were matching with the DNA of the deceased UTP Ankit Gujjar and other eye-witnesses/victims. The eye-witnesses/victims have also made allegations of being threatened by the accused persons including the petitioner/Deepak Dabas to change their statements. There is factual force in arguments advanced by Sh. Anurag Ahluwalia that the role of the petitioner/Deepak Dabas has been



established in commission of crime as 04 eye-witnesses including Gurjeet @ Bobby and Gurpreet @ Badal saw him beating the deceased UTP Ankit Gujjar eye-witnesses and the polycarbonate *lathis* stated to be used to beat the deceased UTP Ankit Gujjar were found to be containing the blood traces matching with the DNA of the deceased UTP Ankit Gujjar as well as surviving victims/eye-witnesses Gurjeet @ Bobby and Gurpreet @ Badal. It is also surfacing that eye witnesses have also complained about being threatened by accused persons to change their statements.

11. It is also true that the trial is not progressing after filing of the chargesheet in view of the order dated 06.10.2023 passed by the Supreme Court in SLP (Crl) no.12055/2023 although it was passed only in relation to the co-accused/Narender Meena as argued by Sh. Anurag Ahluwalia. The co-accused/Narender Meena who is stated to be the main accused has already been released on interim bail which is still continuing. The petitioner/Deepak Dabas was also granted interim bail vide order dated 05.06.2023 passed by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi although the subsequent bail application filed by the



petitioner/Deepak Dabas was dismissed by the court of Special Judge (PC Act), CBI-08, Rouse Avenue Courts, New Delhi vide order dated 28.05.2024.

12. The Supreme Court in judgment dated 09.08.2024 passed in SLP (Crl) no. 8781/2024 titled as **Manish Sisodia V Directorate of Enforcement** has considered the various aspects relating to the grant of bail and referred paragraph no.19 of the judgment titled as **Javed Gulam Nabi Shaikh V State of Maharashtra and Another, 2024** SCC OnLine SC 1693 which is reproduced as under:-

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

12.1 The Supreme Court, after referring several earlier pronouncements in the judgment dated 09.08.2024 observed as under:-

54. ...In our view, keeping the appellant behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to



become punishment without trial.

55. As observed by this Court in the case of Gudikanti Narasimhulu (supra), the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.

56. In the present case, the appellant is having deep roots in the society. There is no possibility of him fleeing away from the country and not being available for facing the trial. In any case, conditions can be imposed to address the concern of the State.

13. The trial in present FIR is not progressing due to order dated 06.10.2023 passed by the Supreme Court in SLP (Crl.) no.12055/2023. The petitioner/Deepak Dabas is stated to be in judicial custody since 30.07.2022 i.e. for almost 02 years. The petitioner was earlier granted interim bail vide order dated 05.06.2023. The co-accused/Narender Meena who is stated to be the main accused has already been released on interim bail. After considering all facts, the petitioner/Deepak Dabas is admitted to interim bail for a period of 03 months from date of release on furnishing a personal bond in the sum of Rs.1,00,000/- with one surety of the like amount to the satisfaction of the concerned trial court on the following conditions:

- i. The petitioner shall surrender his passport, if any, before the concerned trial court;**



- ii. The petitioner shall report to the concerned Investigating Officer on every Monday of each calendar month between 10-11 a.m.;
- iii. The petitioner shall not make any attempt either to influence or threaten the witnesses or to tamper with the evidence;
- iv. The petitioner shall not indulge in any criminal activity.

14. The bail application stands disposed of. It is made clear that nothing in this order shall be construed as opinion on merits of the case. The copy of this order be sent to the trial court and the petitioner/Deepak Dabas through concerned Jail Superintendent for information.

**DR. SUDHIR KUMAR JAIN
(JUDGE)**

AUGUST 16, 2024
J/AM