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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2023/2024

PUSHPENDER

.....Petitioner

Through: Mr. Lakshay Yadav, Advocate

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Aashneet Singh, APP for State with
Insp. Jitender Joshi

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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16.07.2024

1. By way of present application, the petitioner/applicant seeks regular bail in FIR No.206/2015 registered under Sections 302/392/397/411/34 IPC at P.S. Paharganj, Delhi.
2. Learned counsel for the applicant submits that the applicant has been in continued incarceration since 02.04.2015. It is also submitted that the applicant has been released on bail on account of the HPC guidelines during the COVID-19 pandemic, which concession has not been misused by him and that he had surrendered on time.
3. On merits, it is stated that the prosecution case is based on circumstantial evidence inasmuch as the applicant was apprehended on the disclosure statement of co-accused 'A', a CCL, pursuant to which the alleged recoveries were made at the instance of the applicant. He submits that besides the testimony of *Rajan Singh @ Lala*, the last seen witness and the recovery effected at the instance of the present applicant, there is no other material on record implicating the applicant. Lastly, it is stated that the



prosecution evidence is still pending inasmuch as the testimony of I.O. is yet to be recorded.

4. Learned APP for the State, on the other hand, has opposed the bail application. He submits that the applicant alongwith co-accused 'A', who was a helper in the truck of the deceased, committed the offence with the motive of robbing the deceased of Rs.13,500/-. The deceased was last seen in the company of the applicant on 28.03.2015 by the last seen witness namely *Rajan Singh @ Lala*, who has been examined and has supported the prosecution case. He further submits that upon the arrest of the present applicant, a stolen purse, clothes of the deceased as well as the knife used in the incident were recovered at his instance. The knife was sent to the FSL and as per the FSL Report, the blood on the knife matched with the blood of the deceased. The body of the deceased was discovered on 31.03.2015 and as per the postmortem conducted on 01.04.2015, the time of death was opined to have been 2/3 days earlier. He, on instructions, submits that the applicant is also involved in another case bearing FIR No.670/2016 registered under Sections 147/148/149/323/324/186/34 IPC at Police Station S.P. Badli.

5. At this stage, learned counsel for the applicant, while referring to the nominal roll placed on record, submits that in the aforesaid FIR, the applicant has been enlarged on bail.

6. The present case is based on circumstantial evidence. The material cited against the applicant is of a last seen witness and the recoveries effected at the instance of the applicant. The chargesheet is stated to have been filed in June, 2015 and the trial is still pending.



7. Without commenting on the evidentiary value of the material cited against the applicant at this stage and considering that the applicant on his previous release had surrendered in time and especially the period of custody, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty M.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

8. The bail application is disposed of in the above terms.

9. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

10. Copy of the order be uploaded on the website forthwith.



11. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

JULY 16, 2024
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