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

+ **BAIL APPLN. 2039/2024**

SUMIT IN JC/ THROUGH HIS P AIROKAR)Petitioner
Through: Ms. Sonal Singh Godera, Mr. Sagar
Panghal, Advs.

versus

THE STATE OF NCT DELHIRespondent
Through: Mr. Tarang Srivastava, APP for the
State
Insp.Manoj Kumar, PS Govind Puri

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

12.07.2024

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CRL.M.A. 18126/2024 (exemption)

Exemption is allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 2039/2024 & CRL.M.(BAIL) 991/2024

1. The present bail application has been moved seeking regular bail in FIR No.147/2018 dated 06.05.2018 under Section 302/201 IPC registered at PS Govind Puri. The facts in brief as per status report are as under:

“On 06/05/2018 at about 10:14 AM, information regarding a dead body lying in Tuglakabad Fort was received at PS Govind Puri via DD No. 22-A. IO/Police staff reached the spot and discovered the body of a male aged about 20-30 years. Upon inspection, stab wounds were found on the chest, stomach, and both hands, and there were signs of attempted burning on the body and clothes. Despite sincere



efforts, the body could not be identified on the same day. Consequently, the above-mentioned case was registered based on the DD entry by Insp. Sanjay Bhardwaj. During the investigation, the deceased was identified as Neeraj, S/o Bhagwan Das, R/o H.No. 1511, Nagla Gujran Part-II, Near Holy Faith School, Sector-22, Faridabad, Haryana. The statement of an eyewitness, Manoj, S/o Pappu, R/o Jyoti Ashram Ke Samne Wali Gali, Near Bhadana Chowk, Nangla Gujran, Part-1, Faridabad, Haryana, was recorded, and all accused persons were arrested on 10/05/2018. The main accused, Shiv Kumar, was identified as the mastermind behind the incident. He was named in the statement of the eyewitness, Manoj, as well as in the disclosure statements of the co-accused, namely Sumit, Ravi, and Parvez Siddiqui, who were actively involved in the commission of the offence. The petitioner, along with co-accused Ravi and Parvez Siddiqui, refused to participate in a TIP before the Learned MM, Saket Court, Delhi. However, the eyewitness, Manoj, identified them in a chance TIP. During the investigation, two CCL (girls), "K" and "R", were also apprehended. It was discovered that a deep-rooted conspiracy had been hatched by the main accused, Shiv Kumar, along with his sister "K", to take revenge for his and his mother's insult. Shiv Kumar was in a love affair with one Rinki, a college mate. When Rinki's marriage was fixed, Shiv Kumar, along with his mother, went to Rinki's home to stop the marriage. However, a quarrel ensued, and Shiv Kumar was beaten up by the deceased Neeraj, whose uncle Rajkumar's marriage was fixed with Rinki. Shiv Kumar was also beaten by other family members and subsequently threatened them with dire consequences. Feeling insulted, Shiv Kumar planned revenge against Rinki's family and the deceased Neeraj. To execute his plan, he involved his sister "K", Ravi, Parvez, CCL "R", and the petitioner. CCL "K" and her friend "R" attended Rinki's wedding without an invitation. During the function, "K" exchanged her phone number with Neeraj, and "R" exchanged her number with the eyewitness, Manoj. Rinki is Manoj's aunt. According to their plan, "K" called Neeraj to Tughalkabad Fort, which is surrounded by jungle. Manoj also accompanied Neeraj to meet CCL "R". Upon reaching the fort, they found "K" and "R" with the accused Shiv Kumar, Parvez Siddiqui, Ravi, and the petitioner. CCL "K" took Neeraj aside while CCL "R" went with Manoj in a different direction.



Manoj witnessed Shiv Kumar and his associates approaching Neeraj, with Shiv Kumar slitting Neeraj's throat with a knife and his associates stabbing him. The deceased was then burned and left in the jungle. Manoj managed to escape despite being chased by the accused. During the investigation, a knife and the deceased's mobile phone were recovered based on the information provided by Shiv Kumar and CCL "K" from the jungle area. After the incident, all accused persons—Shiv Kumar, Ravi, Parvez @ Parvesh, the petitioner, and the CCL girls—were captured on CCTV cameras installed near Gali No. 28, Tughlakabad Ext., Delhi, and KFC while exiting the Tughlakabad Fort jungle area. The same was obtained and placed on record.

2. Learned APP has submitted that the alleged offence against the accused is serious in nature and if the petitioner is released on bail, he may not attend the trial.
3. Learned counsel for the petitioner submits that even as per the case of the prosecution Shiv Kumar @ Rahul was the master mind of the case and he has already been admitted to bail by the trial court by the order dated 08.07.2024. Learned counsel has further submitted that another co-accused Pravez Siddiqui has also been admitted to bail by this court vide a detailed order dated 07.02.2024. Learned counsel submits that the learned trial court had examined the testimony of PW1 Manoj who is the sole eye witnesses in detail and after taking into account all the facts and circumstances, admitted the applicant on bail. Learned counsel for the petitioner submits that thus on the ground of parity also, the petitioner is entitled to be admitted to bail.
4. The parameters for grant bail in serious cases are very well defined as has also been discussed by this court in order dated 07.02.2024. In the order dated 07.02.2024 while examining the testimony of PW1 has



inter alia held as under:

“10. A perusal of the testimony of PW-1 Manoj, the sole alleged eye witness shows that there are contradictions as his statements on certain material particulars made under Section 161 Cr.P.C. and during the trial are at variance. While at the initial stage, he stated that Komal and Rakhi had led Neeraj towards the jungle area, later in the examination-in-chief he improvised to state that Komal and Rakhi took both Neeraj and him to the jungle. There is contradiction on the description of the incident on how Neeraj was attacked. There is also contradiction in the dates on which his statements were recorded by the police. In the statement under Section 161 Cr.P.C., Manoj stated that the police recorded his statements on 06.05.2018 and 12.05.2018 while in the cross-examination, according to him, his statement was recorded on 07.05.2018 and yet again, in contradiction he later stated that the police had taken him to the police station during the intervening night of 08.05.2018 and 09.05.2018. As far as 12.05.2018 is concerned, again there is contradiction as on one occasion he stated that he had gone to the police station on 12.05.2018 as he was called by the police to identify the assailants and on the other hand, he stated that he had gone to inquire of the status of the case. Being a friend and relative of the deceased Neeraj, his conduct of remaining silent for three days after the alleged incident and not reporting the same even to his own family or to the family of the deceased is an unbelievable and an unnatural conduct, particularly, when he knew that the families were on a desperate look out for Neeraj. This Court is conscious of the fact that the probative value of the testimonies of the witnesses and/or their credibility is the domain of the Trial Court in the first instance, however, at this stage, this Court cannot gloss over the alleged discrepancies. Evidence relating to CCTV footages is a matter of trial and at this stage, it is not possible to come to a conclusion one way or the other if the person seen in the first CCTV footage is or is not the Applicant, since the face of the Applicant is not visible. As a matter of record, Applicant has been in custody for over five years. All material witnesses including the sole eye witness of the prosecution have been examined and 14



formal witnesses remain to be examined and therefore, there is no question of the Applicant tampering with evidence and/or extending threats to or intimidating the witnesses. With 14 witnesses remaining to be examined, trial is not likely to conclude soon. Weapon of offence i.e. knife as well as the mobile phone of the deceased were recovered at the instance of accused Shiv Kumar and the bottle containing petrol was recovered at the instance of accused Sumit and there is no recovery from the Applicant or at his instance. It is uncontroverted that Applicant has no criminal antecedents. As repeatedly held by the Supreme Court, the object of keeping a person in custody is to ensure his availability to face the trial and receive the sentence that may be passed and it is equally settled that at pre-conviction stage, there is a presumption of innocence. It is not the case of the prosecution that the Applicant is a flight risk.”

5. As per the status report, the role of the present petitioner has been mentioned. PW1 Manoj has stated that girls ‘K’ and ‘R’ were present with Shiv Kumar, Parvez Siddiqui, Ravi and the present petitioner. Thus, the evidence against the present petitioner was in the form of testimony of PW1 Manoj. The evidence of PW1 Manoj has already been discussed in detail as above.
6. Without making any further comments on the merits of the case as it may prejudice the case of the prosecution, the petitioner on the ground of parity is admitted to regular bail during the pendency of the trial, subject to his furnishing a personal bond in the sum of Rs.50,000/- with two sureties of the like amount to the satisfaction of the Trial Court and further subject to the following conditions:
 - i. Applicant shall not leave the country without prior permission of the Trial Court;
 - ii. He shall provide his mobile number to the IO concerned and keep the same active at all times and shall not change the number without



prior intimation to the IO and the Trial Court;

iii. He shall furnish his permanent residential address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in his residential address;

iv. He shall not indulge in any criminal activity or communicate with or come in contact with the witnesses and/or any other person associated with the present case and/or intimidate them;

v. He shall report to concerned IO once a month; and

vi. He shall appear on every date of hearing before the Trial Court unless exemption is sought and granted by the Court on any given date.

7. Nothing stated in this order shall tantamount to expression of an opinion on merits of the case.
8. Application is allowed and disposed of. Pending application also stands disposed of.
9. Copy of the order be forwarded to the concerned Jail Superintendent for information and necessary compliance.
10. Learned APP is directed to formally place on record the status report dated 12.07.2024.

DINESH KUMAR SHARMA, J

JULY 12, 2024

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