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

+ **BAIL APPLN. 2059/2024**

GAGANDEEP SINGH

..... Applicant

Through: Mr. Rajeev Krishan
Sharma, Ms. Megha
Sharma, Mr. Shantanu
Singh & Mr. Raman
Singh, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
alongwith Inspector Bharat
Ratan (P.S. Tilak Nagar).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

04.07.2024

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1. The present petition is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC'), seeking regular bail in FIR No. 34/2024 dated 14.01.2024, registered at police station Tilak Nagar, for offences under Sections 302/323/34 of the Indian Penal Code, 1860 ('IPC').

2. It is the case of the prosecution that on 14.01.2024, a PCR call was received regarding a quarrel. It is alleged that when the police officers reached the spot of the incident, they found that the injured persons had been taken to DDU Hospital. It was found that the victim, namely, Shyam Lal, had been brought dead to the Hospital and his MLC mentioned physical assault.

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Thereafter, the present FIR was lodged at the instance of the complainant (nephew of the victim).

3. It is alleged that the complainant and his cousin saw co-accused Harshdeep Singh (brother of the applicant) peeing on the bumper of their car. It is alleged that upon confronting, the co-accused Harshdeep started abusing them. In the meantime, the applicant and co-accused Inderjeet (father of the applicant) came there and gave them beatings. It is alleged that when the victim tried to rescue the complainant, the applicant threw him on the stairs of a nearby shop due to which the victim sustained a head injury. It is further alleged that when the victim got up and tried to escape, the co-accused Inderjeet hit him on his head with a stick. As per the postmortem report, the cause of death is a cerebral injury caused by blunt force impact and the nature of injuries were deduced to be ante-mortem in nature.

4. The learned counsel for the applicant submits that the applicant has clean antecedents and he been falsely implicated in the present case. He submits that the injuries sustained by the victim were purely accidental in nature.

5. He submits that the applicant was celebrating Lohri with his family and new-born son on the date of the incident, whereafter, a scuffle took place between the parties due to co-accused Harshdeep peeing on the wall of the complainant's house. He submits that the applicant and co-accused Inderjeet intervened solely to protect co-accused Harshdeep and stop the fight.

6. He submits that the video of the incident clearly shows the co-accused Harshdeep and co-accused Inderjeet being beaten mercilessly by the complainant and his family members. He submits that even the applicant sustained multiple injuries in the

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incident when he was thrown at a shop's shutter.

7. He submits that the accused persons in the present case were significantly outnumbered as more than 7-8 family members of the complainant, including ladies, were present at the spot of the incident.

8. He submits that Section 302 of the IPC is not made out against the applicant as the accused persons were merely trying to defend themselves.

9. He submits that after some time, even the complainant realised that the accused persons have been falsely implicated due to an accident during a petty fight and acknowledged that the death of the victim was accidental due to him having fallen down as he lost his balance.

10. The learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that specific allegations have been levelled against the applicant and the crime alleged in the present case is heinous in nature.

11. I have heard the learned counsel for the parties.

12. The present case was registered on the allegation of the complainant that he saw the co-accused Harshdeep Singh peeing on the bumper of his car.

13. It was alleged that the applicant, who is the brother of co-accused Harshdeep Singh, came at the spot and a quarrel ensued between the parties. The other family members of the complainant as well as the accused persons joined the altercation.

14. It is contended on behalf of the applicant that no offence under Section 302 of IPC is made out.

15. It is contended that, admittedly, the quarrel took place between the parties after sudden alleged provocation.

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16. It is contended that the applicant or other accused persons thus cannot be alleged to have any intention to cause death or such bodily injury as they would know to be likely to cause death. The charges in the present case are yet to be framed, therefore, this Court does not consider it apposite to comment on the said aspect at this stage.

17. However, while considering the application of bail, it is trite law that the Court has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

18. The case of the prosecution, at this stage, rests on the statement of the complainant and the CCTV footage of the incident.

19. It is pointed out that the complainant during the proceedings before the learned Trial Court has filed an affidavit stating that on perusal of the CCTV footage, he found that the death of the victim was accidental. It was also mentioned by the complainant that there is no previous enmity between the accused persons and the family members of the complainant. The parties were intoxicated due to which the quarrel escalated and an altercation took place between the parties.

20. This Court has also perused the CCTV footage produced during the course of hearing.

21. It is apparent that the scuffle took place between the family of the complainant and the accused persons. The ladies of the families also seemed to have been involved. It could also be seen



that due to the commotion, some of the people fell down which would have led to further injuries. The victim appears to have sustained a head injury as well. The CCTV footage does not show that any weapon was being used by the applicant.

22. It is not denied that the applicant and his family members also received injuries during the altercation.

23. Admittedly, the applicant and his family members were celebrating the Lohri festival. The wife of the applicant is stated to have given birth to a child in the month of January, 2024. It is also apparent from the perusal of the CCTV footage that the applicant was also mercilessly beaten by the complainant and his family members. The contention that the cause of the death was accidental, as also stated by the complainant in his reply filed before the learned Trial Court, cannot be ruled out.

24. The footage also shows that the applicant and his family were in fact outnumbered by the family and friends of the complainant. Even as per the allegations, altercation seems to have taken place due to the provocation and the parties being intoxicated appear to have lost the self-control because of the alleged provocation. The applicant is in custody since 14.01.2024 and the chargesheet has already been filed. The applicant thus is no longer required for further investigation.

25. The applicant is a young man of twenty-seven years of age having a dependent wife and one minor child who is only seven months old. No purpose would be served by keeping the applicant in further custody.

26. Admittedly, the applicant has deep roots in society. The applicant, therefore, cannot be called a flight risk. Even though, the witnesses are stated to be neighbours of the applicant, no apprehension has been raised by prosecution that they will be

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threatened if the applicant is released on bail. Moreover, appropriate conditions can be put to allay such apprehension.

27. *Prima facie*, there is a merit in the contention that the applicant has not committed the offence under Section 302 of IPC.

28. Without commenting further on the merits of the case, I am satisfied that the applicant has made out a case for grant of regular bail.

29. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall not contact any of the witnesses in any manner whatsoever;
- c. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;



f. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

30. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

31. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

32. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

JULY 4, 2024

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