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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3080/2023**

SHOBHA

..... Petitioner

Through: Dr. L.S. Chaudhary, Dr. Ajay Chaudhary, Mr. Vishesh Kumar, Mr. Bharat Chaudhary and Ms. Kavita, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Laksh Khanna, APP for State with Insp. Umesh Rana, P.S. Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.01.2024

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1. By way of present bail application filed under Section 439 read with Section 482 Cr.P.C., the applicant seeks regular bail in FIR No. 1045/2020 registered under Sections 302/201/120B/34 at Police Station Nihal Vihar.
2. Learned counsel for the applicant contends that the present case is based on circumstantial evidence with the allegation that the applicant had illicit relations with the co-accused Suraj which was not liked by the deceased-Jitender (her brother-in-law). It is contended that there is no material collected by the investigating agency that connects the applicant with the offence. Learned counsel further submits that though a Mobile phone/SIM card was seized but the SIM card belongs to one Jagdish Singh who has neither been investigated nor made a witness in the case. It is also stated that the petitioner is not involved in any other case and that all the



material witnesses have been examined. Lastly, it is stated that the petitioner is in custody since 30.01.2021 and has two minor children to look after.

3. The bail is vehemently opposed by the learned APP for the State. It is stated that as per the prosecution case, it is the illicit relations of the present applicant with the co-accused Suraj which is the motive for eliminating Jitender, the deceased, who was the brother-in-law of the present applicant. He has referred to the statement of the Raju Alla (PW-4), Luvkush (PW-5) and Rajkali (PW-8) to emphasise that the said witnesses have stated about the illicit relationship of applicant with the co-accused Suraj. Lastly, he has referred to the CDR details which show that the present applicant was in constant touch with the co-accused Suraj on the day of the incident and thereafter.

4. On a prima facie view, from the testimony of the material witnesses placed on record, it is apparent that as per the prosecution case, the deceased was known to the accused persons having lived with co-accused Suraj at one point of time. On the aspect of motive, witness Raju Alla (PW-4) turned hostile. He was cross-examined by the learned APP and a suggestion given to the witness that deceased during his life time had informed him about the illicit relationship between the applicant and co-accused Suraj, was denied. A perusal of testimony of Luvkush (PW-5) would show that the said witness only speculated that the motive of death is the said illicit relation. Testimony of Rajkali (PW-8) would also show that she admits to having not seen Shobha with the co-accused Suraj herself but claims that the deceased, her brother, had said so during his lifetime. She has not provided any specific details on the aforesaid aspect.

5. Considering the totality of the facts and circumstances, it is directed



that the applicant be released on regular bail subject to her furnishing a personal bond in the sum of Rs.10,000/- 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 her mobile number to the Investigating Officer on which she 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.

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

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

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

9. 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 as the observations are only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

JANUARY 5, 2024/ga

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