



2024:DHC:1261



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 19th February, 2024

+ **BAIL APPLN. 3086/2023**

DHARMENDER

..... Applicant

versus

STATE OF NCT OF DELHI THROUGH

SHO PS RAJOURI GARDEN Respondent

Advocates who appeared in this case:

For the Applicant : Mr. Ramesh Gupta, Sr. Advocate with
Ms. M. Begum, Ms. Avneet Kaur,
Mr. Shailendra Singh, Mr. Ishaan Jain,
Mr. Harsh Choudhary & Mr. K.R. Dogra,
Advocates for the Applicant in BAIL APPLN.
3086/2023.

For the Respondent : Mr. Utkarsh, APP for the State with SI
Ashish Yadav, PS Rajouri Garden.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') for grant of regular bail in FIR No.

Signature Not Verified

Digitally Signed
By: HARMINDER KAUR
Signing Date: 19.02.2024
19:59:36

BAIL APPLN. 3086/2023

Page 1 of 6



2024:DHC:1261



1088/2021 dated 23.12.2021, for offences under Sections 365/367/368/307/506/34/120B of the Indian Penal Code, 1860, registered at Police Station Rajouri Garden.

2. The present FIR was registered on a complaint given by the complainant/ victim. It was stated that around three years earlier he had befriended a girl, namely Maneka. It was stated that the victim and Maneka were in relationship and wanted to get married. However, Maneka's family was against the same. On 11.12.2021, the victim and Maneka eloped to Jaipur. Thereafter, they got married on 21.12.2021 in a temple and came back to Delhi on 22.12.2021. On coming back to Delhi, they informed Maneka's family, which got agitated on hearing the same and threatened the victim.

3. It is alleged that on 22.12.2021, Maneka's father, her uncle Bhanu, two of her brothers, that is Abhishek and Raghav, and her brother-in-law Aman forcefully took the victim and Maneka to their house in Sagarpur. In the house, another brother of Maneka, that is Akshay, her uncle Anil, her mother Geeta, her grandmother Kaushalya and her aunt Sandhya were also present along with other persons.

4. It is alleged that all of them together gave beatings to the victim with sticks and belt. It is further alleged that Maneka's grandmother shouted that the victim's genitals should be chopped off, pursuant to which Maneka's uncle Bhanu brought an axe from the inside of the house. It is alleged that the family members of Maneka then held down the victim, and Maneka's uncle Bhanu gave the blow which led to the



2024:DHC:1261



dismembering of the victim's genitals.

5. It is further alleged that the family members of Maneka thereafter threw the victim near the Sagarpur drain.

6. The chargesheet in the present case has been filed. The learned Trial Court by order dated 03.05.2023 has also framed charges for offences under Sections 120B, 365, 367, 307, 506, 323/324, 342 and 201 read with Section 120B of the IPC against the applicant. The complainant/ victim has already been examined in the present case.

7. The learned senior counsel for the applicant submitted that the applicant is a law abiding citizen and has been falsely implicated in the present case.

8. He submitted that the applicant was not named in the present FIR. He further submitted that the applicant was working as a driver in the family of the co-accused persons and his only role was to drive the vehicle at the instructions of the employers.

9. The learned Additional Public Prosecutor for the State opposed the grant of any relief to the applicant. He submitted that the complaint given by the victim is corroborated by his statement under Section 164 of the CrPC.

10. He submitted that the victim's brother had also categorically stated that the victim had told him that Maneka's family members had beaten the victim and had dismembered his genitals.

11. He further submitted that the allegations are also corroborated by the statement given by Maneka under Section 164 of the CrPC.



2024:DHC:1261



12. It is pointed out by the parties that the evidence of the victim was recorded by the learned Juvenile Justice Board on 21.04.2023 and before the learned Juvenile Justice Board, the victim has denied that he has given any complaint to the police in regard to the incident.

13. The statement of the victim was recorded by the learned Trial Court on 25.11.2023, where he stated that four persons had misbehaved with his wife Maneka, which led to a quarrel. He alleged that those persons hit him on the head with a flower pot due to which he became unconscious. He claimed that Maneka called his elder brother. Thereafter, he was taken to Safdarjung Hospital and he is not aware of anything that happened thereafter. He further claimed that police officials have taken his signatures and thumb impressions on the blank paper.

14. It is thus, apparent that the victim has turned hostile. It is settled law that the statement of a witness is only a piece of evidence, and for the purpose of conviction, the corroborated part of the evidence of a hostile witness regarding the commission of the offence is to be treated as admissible. (Ref. *Mrinal Das v. State of Tripura* : (2011) 9 SCC 479) The Trial Court while deciding the case has to consider the entire material on record, and can definitely look into the circumstances and other evidence put forth by the prosecution while passing the judgment.

15. However, this Court while considering the application of Bail cannot lose sight of the fact that the present case relates to the injury of the victim. From the statement of the victim, as discussed, the very



2024:DHC:1261



foundation of the allegations, at this stage, becomes doubtful.

16. Moreover, it is not denied that the applicant was only an employee of one of the accused person. He is not stated to be related to the victim or Maneka. No motive or reason in such circumstances can be assigned on the applicant at this stage.

17. It is also not denied that the applicant has no antecedents and is in custody since 31.08.2022.

18. In view of the above, the applicant is 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. He 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. He shall under no circumstance leave the boundaries of the National Capital Region without the permission of the Trial Court;
- c. He shall appear before the learned Trial Court as and when directed;
- d. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. He shall, upon his release, give his mobile number to the

Signature Not Verified

Digitally Signed
By: HARMINDER KAUR
Signing Date: 19.02.2024
19:59:36



2024:DHC:1261



concerned IO/SHO and shall keep his mobile phone switched on at all times.

19. 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 way of filing an application seeking cancellation of bail.

20. 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.

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

AMIT MAHAJAN, J

FEBRUARY 19, 2024

"SK"

Signature Not Verified

Digitally Signed
By: HARMINDER KAUR
Signing Date: 19.02.2024
19:59:36