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

+ **BAIL APPLN. 2200/2024**

BHAGAT RAM

.....Applicant

Through: Mr. Mukesh Kalia, Ms.
Kanika Vohra and Mr.
Lakshay Dhillon, Advs.

versus

THE STATE N.C.T OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State with
Insp. Dham Singh, PS
Pahar Ganj.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.08.2024

1. The present bail application is filed seeking regular bail in FIR No. 176/2019 dated 25.06.2019, registered at Police Station Pahar Ganj, for offence under Section 302 of the Indian Penal Code, 1860 (**IPC**).
2. The FIR was registered alleging that the applicant came to the Police Station and admitted that he had murdered his daughter-in-law by cutting her throat with the kitchen knife.
3. The learned counsel for the applicant submits that the victim was murdered by an unidentified person in front of PW-1, who is the applicant's grandson (son of the deceased).
4. He submits that PW-1 has categorically deposed that the applicant tried to call the Police and also tried his best to stop the bleeding and then went to the Police Station to inform about the

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crime.

5. The learned Additional Public Prosecutor for the State submits that the clothes of the applicant were soaked with the blood of the victim and he has also admitted to have committed the crime.

6. He submits that the statement of PW-1 under Section 161 of the Code of Criminal Procedure, 1973 (**CrPC**) was also recorded at that stage. He has stated that the victim's husband was not staying in the house due to matrimonial acrimony. He also stated that his mother (victim) used to have fights with his grandfather (the applicant) and his grandmother.

7. The applicant is admittedly 70 years of age. He has been in custody since 25.06.2019.

8. PW-1 has been examined and he has now turned hostile.

9. 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.

10. It is pertinent to note that PW-1 is the son of the deceased. At this stage the son of the deceased, who is admittedly present at the scene of the crime, deposed that the applicant has not committed any crime. This creates doubt in the entire version of the prosecution, and the benefit of which cannot be denied to the accused.



11. The age of the accused is also a relevant factor which cannot be ignored. The applicant is now admittedly, a senior citizen aged 70 years.

12. It is relevant to note that CrPC provides for special consideration to be accorded to the factors of sickness and infirmity of the accused person while considering the question of grant of bail.

13. While “infirmity” has not been defined in the Code, the Oxford English Dictionary defines the same as not physically strong or healthy; weak or feeble, especially through old age. The Merriam Webster’s Dictionary also defines the same as of poor or deteriorated vitality, especially: feeble from age.

14. The applicant is in custody since 25.06.2019.

15. The trial is likely to take considerable period of time. The Hon’ble Apex Court in the case of *Union of India v. K.A. Najeeb*: AIR 2021 SC 712, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

16. A long period of incarceration, thus, is also a factor which has to be kept in mind at the time of deciding the question of grant or refusal of bail.

17. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

18. The applicant is admittedly a resident of Delhi and he is unlikely to abscond. Even otherwise, appropriate conditions can



be imposed to allay any apprehension of the applicant evading trial or intimidating the witnesses.

19. In view of the same, without commenting on the merits of the case, this Court is of the opinion that the applicant ought to be enlarged on bail. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- 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.

20. 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.

21. 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.

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

AMIT MAHAJAN, J

AUGUST 5, 2024

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