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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2243/2024 & CRL.M.A. 19046/2024

IMRAN @ SONU

.....Applicant

Through: Mr. Gaurav Jain, Adv.
(through VC)

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Ajay Vikram Singh,
APP for the State with SI
Govind Kumar, PS
Chandni Mahal.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

23.09.2024

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1. The present bail application is filed seeking regular bail in FIR No. 130/2019 dated 15.08.2019, registered at Police Station Chandni Mahal, for offences under Sections 307/34 of the Indian Penal Code, 1860 (**IPC**).
2. Briefly stated, the FIR in the present case was registered on the compliant filed by the complainant alleging that on the intervening night of 14/15.08.2019, during an altercation, the accused/applicant attacked the complainant with a knife due to which she sustained injuries on her chin. The complainant alleged that when she tried to escape, the accused caught hold of her and attacked her again on the neck with knife.
3. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case without any cogent and corroborative evidence.

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4. *Per Contra*, the learned Additional Public Prosecutor for the State opposed the bail application. He submits that the allegations against the applicant are heinous in nature.

5. It is undisputed that the applicant has already spent almost five years in custody and only 10 out of 21 witnesses have been examined.

6. In such circumstances, the trial is likely to take considerable period of time.

7. It is settled law that the Court, while considering the application for grant of bail, 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.

8. However, prolonged incarceration as an undertrial militates against the right to life and personal liberty guaranteed under Article 21 of the Constitution, and is also a factor which has to be kept in mind at the time of deciding the question of grant or refusal of bail.

9. It is also a matter of fact that Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**) also provides that if the accused has undergone 1/3rd of maximum punishment prescribed, the bail normally should be granted.

10. The learned Additional Public Prosecutor for the State submits that the applicant has been involved in multiple cases.

11. However, admittedly the said FIRs were registered prior to the applicant was taken into custody in the present case. The



same, in the opinion of this Court, cannot be a ground to deny bail to the applicant.

12. One FIR is stated to have been registered after the applicant was taken into custody in the present case. Admittedly, the applicant has been acquitted in the said FIR, being FIR No. 893/2020 registered at Police Station Harsh Vihar.

13. 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.

14. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall 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 under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. 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;



e. 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.

15. 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.

16. 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.

17. The bail application is allowed in the aforementioned terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 23, 2024

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