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

+ **BAIL APPLN. 2302/2024**

SHIVAM

.....Petitioner

Through: Mr. Shoaib Akhtar, Mr. Virender K
and Mr. Dilshad Khan, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Dharmendra, P.S:
Kishangarh, New Delhi.

+ **BAIL APPLN. 2411/2024**

SAURABH

.....Petitioner

Through: Mr. Shoaib Akhtar, Mr. Virender K
and Mr. Dilshad Khan, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Dharmendra, P.S:
Kishangarh, New Delhi.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

27.08.2024

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1. The Petitioners have approached this Court for grant of regular bail in FIR No.82/2024 dated 12.03.2024, registered at Police Station Kishan Garh for offences punishable under Sections 302/323/341/34 IPC.
2. This Court on 07.08.2024 had adjourned the matter to await the Order on Charge. Though the FIR was initially registered under Sections



302/323/341/34 IPC, the charges have been framed against the Petitioners for offences punishable under Sections 304/323/34 IPC vide Order on Charge dated 22.08.2024. Paragraph Nos.12 and 13 of the Order on Charge dated 22.08.2024 read as under:

“12. The deceased was assaulted by five offenders including present three accused persons with bare hands by punches and kicks causing total 09 injuries including one fatal injury to him. As per postmortem report, the deceased sustained 08 external injuries and none of them has been opined to be grave or serious enough to be called sufficient in ordinary course of nature to cause death. Rather, the said injuries are either superficial or inflicted on non vital organs of the deceased. The postmortem report demonstrates that the cause of his death is internal injuries sustained by him in his head consequent upon blunt force trauma. The said injury has not been opined to have been caused by multiple blows on his head. Thus, it can be inferred that he died due to the single blow with blunt force upon his head. The said single fatal injury inflicted upon the deceased cannot be termed as a cruel or unusual to devoid the accused persons in availing benefit of Exception 4 of Section 300 IPC.

13. The manner in which the alleged offence occurred, it is an unpremeditated sudden fight which was disproportionately retaliated by the accused persons but without taking undue advantage of the deceased. Therefore, the present case clearly falls within the scope of Exception 4 to Section 300 IPC.”

3. A perusal of the Order on Charge reveals that the deceased was assaulted by five offenders, including the present Petitioners with bare hands by punches and kicks, thereby causing total 09 injuries to the deceased. No weapon was used in the crime. Injuries have been inflicted on non vital



organs of the deceased. The Petitioners have been in custody since 12.03.2024.

4. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Apex Court has laid down the parameters for granting or refusing bail to an accused and the same reads as under:

“i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

ii. nature and gravity of the accusation;

iii. severity of the punishment in the event of conviction;

iv. Danger of the accused absconding or fleeing, if released on bail;

v. character, behavior, means, position and standing of the accused;

vi. Likelihood of the offence being repeated;

vii. Reasonable apprehension of the witnesses being influenced; and

viii. Danger, of course, of justice being thwarted by grant of bail.”

5. There is a possibility that the Petitioners can be convicted for an offence punishable under Section 304(II) IPC under which the maximum imprisonment is upto 10 years. The Petitioners herein are 21 and 23 years of age respectively. Material on record indicates that the incident has taken place because of a quarrel. Conditions can be imposed to ensure that the



Petitioners do not flee or abscond or repeat the offence.

6. Considering the facts and circumstances of the case and more particularly the age of the Petitioners, this Court is inclined to grant regular bail to the Petitioners, subject to the following conditions:

- i. The Petitioners shall furnish a security in the sum of Rs.50,000/- each with two sureties each of the like amount to the satisfaction of the Trial Court/Magistrate/Duty Magistrate.
- ii. The Petitioners are directed to give their correct address, where they will reside during the trial, to the Trial Court and to the Investigating Officer (IO). The Investigating Officer is directed to verify the address given by the Petitioners. The Petitioners are directed not to change the given address without informing the Investigating Officer.
- iii. The Petitioners are directed to provide all their mobile numbers to the I.O. and keep them operational at all times.
- iv. The Petitioners shall not leave the NCT of Delhi without the permission of the Trial Court.
- v. The Petitioners are directed to report to the concerned Police Station thrice in a week, i.e., every Monday, Wednesday and Friday at 10:00 AM and they shall be released by 10:30 AM after completing all the formalities.
- vi. The Petitioners are directed not to contact the witnesses either directly or indirectly.
- vii. The Petitioners are directed to appear before the Trial Court on all dates of hearings without fail.
- viii. Violation of any of the aforesaid conditions shall lead to



cancellation of bail granted to the Petitioners by this Court.

7. With these observations, the bail applications are disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 27, 2024

S. Zakir