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

+ **BAIL APPLN. 2311/2024**
MINI SANGAM @ NEHAApplicant
Through:

versus

THE STATE OF NCT OF DELHIRespondent
Through:

+ **BAIL APPLN. 2317/2024**
MINI SANGAM @ NEHA Applicant
Through:

versus

THE STATE OF NCT OF DELHI
& ANR.Respondents

Present: Mr. Praveen K. Chauhan, Ms. Deepti Dogra,
Ms. Karishma, Mr. Ashok Kumar, Ms. Vandana
Dogra, Mr. Narender Malik, Mr. Gaurav Gulati &
Mr. Sandeep Kumar, Advocates for the applicant.
Mr. Ajay Vikram Singh, APP for the State with
Insp. Sani, PS Vasant Vihar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
13.08.2024

1. The present applications are filed seeking regular bail in FIR No. 1011/2016 dated 18.11.2016 and FIR No. 1020/2016 dated 26.11.2016, registered at Police Station Vasant Vihar, for offences under Sections 302/201 of the Indian Penal Code, 1860 ('IPC') respectively. Chargesheets were filed against the applicant for offences under Sections 302/201/120B of the IPC in the case arising out of FIR No. 1011/2016 and for offences under

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Sections 302/201/120B/34 of the IPC in the case arising out of FIR No. 1020/2016.

2. The brief facts of the present cases are as follows:

2.1. On 18.11.2016, on receiving a PCR call, the police staff reached the spot and found a polythene bag containing a white plastic bag. The bag was untied and the body of an unknown woman with injuries was found inside the same. Pursuant to the same, the FIR No. 1011/2016 was registered on the same day. The body was preserved in mortuary. During investigation, sincere efforts were made to identify the unknown woman and her photo was published in leading newspapers as well.

2.2. On 25.11.2016, another PCR call was received regarding a dead body found in a manhole sewer. The police officers reached the spot and found that the dead body was that of a woman in two pieces without her head. Pursuant to the same, the FIR No. 1020/2016 was registered on 26.11.2016. The body was preserved in mortuary.

2.3. Thereafter, on 26.11.2016, a woman, namely, Sangi *alias* Sonia came to the police station and stated that she had identified the dead woman in the photographs posted in relation to FIR No.1011/2016 as Naysha. She also informed that the victim used to live in Munirka and worked with a man named Arjun.

2.4. On the same day, one person, namely, Sachin, approached the police station to inform about his missing friend – Sonam *alias* Sushma Rai. He identified the preserved dead body in FIR No.1020/2016 as that of his friend Sonam. He also informed that the victim used to live in Munirka.

2.5. It was found that the deceased victims were roommates. On 27.11.2016, during investigation, the neighbours of the



deceased victims, namely, Merriana and Nishita, were examined. It is alleged that Merriana stated that the deceased victims used to work at a spa with Arjun, Jeevan and Govind and that they used to frequent the house of the deceased victims. She further stated that on 14.11.2021, the victim Sonam had told her that Arjun had borrowed ₹2 lakhs from her and he was threatening her.

2.6. On 29.11.2016, the house of the deceased victims was inspected and blood stained clothes were found there.

2.7. Thereafter, a search was conducted for the colleagues of the deceased victims, namely, Arjun, Jeevan and Govind, however, it was found that they were absconding.

2.8. The accused persons, including the applicant, were subsequently arrested and they disclosed their involvement in the crime.

2.9. It is the case of the prosecution that the applicant was in a live-in relationship with accused Arjun. It is alleged that accused Arjun was involved in the business of spa therapy and the victim Sonam used to work with him. It is alleged that the victim Sonam and accused Arjun had gotten married in a temple. It is alleged that when the applicant found out about the same, she had an argument with the victim Sonam who told the applicant that she planned on getting her marriage registered in the Court. It is alleged that accused Arjun had told the applicant that he had married the victim Sonam under compulsion as he had to return ₹2 lakhs to her.

2.10. It is alleged that the accused Arjun and the applicant hatched a conspiracy to kill the victim Sonam with the help of co-accused persons, namely, Jeevan and Govind, and promised to give them ₹1 lakh each for their assistance. It is alleged that the



applicant remained in touch with the accused persons through mobile calls to execute their plan.

2.11. It is alleged that on 10.11.2016, the accused Arjun called the victim Sonam at his house and killed her with the assistance of the co-accused persons, namely, Jeevan and Govind. It is alleged that the said accused persons cut the body of the deceased in two parts and beheaded her before dumping the pieces of the dead body in the gutter. It is alleged that on 17.11.2016, the victim Naysha enquired about the victim Sonam, which led accused Arjun to apprehend that she might suspect his involvement. It is alleged that accused Arjun informed about the same to the applicant who instigated him to kill the victim Naysha as well. Accordingly, accused Arjun along with accused Jeevan and Govind reached the house of the victim Naysha and murdered her.

2.12. It is alleged that the applicant confessed that the other accused persons had told her the details of how they had killed and chopped the victims on 21.11.2016. She further confessed that accused Arjun had shown her the chopper used in the commission of the crime, which was subsequently recovered at her instance. She also allegedly confessed that she had cleaned the blood stains from the bathroom where the accused persons had allegedly chopped the dead body of victim Sonam.

3. The learned counsel for the applicant submits that the applicant is innocent and she has been falsely implicated in the present cases.

4. He submits that there is no eye witness in the present case and the evidence in the present case is only circumstantial in nature. He submits that the applicant has been implicated in the



present case merely on the basis of some CDR connectivity.

5. He submits that the applicant has been in incarceration for a period of more than seven years and the cases are still at the stage of examination of prosecution witnesses. He submits that the trial is not likely to be concluded in the near future.

6. He submits that the applicant was granted interim bail for a period of two months in both the matters and she duly surrendered on time. He further submits that all the public witnesses *qua* the applicant have already been examined.

7. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the present bail applications.

8. He submits that the offences levelled against the applicant in both the cases are heinous in nature and in such circumstances, no relief should be granted to her.

9. He further submits that the prosecution witnesses have supported the case of the prosecution.

10. He submits that there is CDR connectivity between the applicant and the accused Arjun and she was in regular touch with him just before and after the incidents.

11. I have heard the learned counsel for the parties and perused the record.

12. 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. However, at the same time, the



period of incarceration is also a relevant factor that is to be considered.

13. The allegations in the present cases are grave and heinous in nature. It is the prosecution's case that the co-accused persons brutally murdered the deceased victims and the applicant was part of the conspiracy. It is alleged that deceased Sonam was killed because she was allegedly insisting the accused Arjun to marry her

14. It is, however, not disputed that the entire case is based on circumstantial evidence. There is no eye-witness to the commission of the alleged offence.

15. It is settled law that when the case is based solely on circumstantial evidence, the chain of circumstances has to be so complete that it leaves no reasonable ground for any other conclusion except for the hypothesis of guilt of the accused person.

16. Even otherwise, it is not the case of the prosecution that the applicant actively participated in the murder of the deceased victims. It is alleged that she was part of the conspiracy to murder the victims, however, the murder had been executed by the co-accused persons. Her complicity in the crime is sought to be established primarily on the basis of CDR connectivity between the applicant and accused Arjun.

17. Insofar as the recovery of the chopper is concerned, the same was admittedly recovered from the kitchen of the house shared by the applicant and accused Arjun.

18. It is also relevant to note that the applicant is in custody since 14.12.2016. Despite more than seven years having elapsed since her arrest, the trial in both the matters is at the stage of



examination of prosecution witnesses. It is pointed out that only 21 out of the 45 listed prosecution witnesses have been examined in FIR No.1011/2016 and only 16 out of the 35 listed prosecution witnesses have been examined in FIR No.1020/2016.

19. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb*** : AIR 2021 SC 712 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.

20. While it cannot be denied that the offences alleged against the applicant are heinous in nature, the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Another*** : Crl.A.2787/2024 has observed as under:

“19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

21. The continued incarceration of the applicant will result in the denial of her fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in near future.

22. 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.



23. The applicant, being a woman, is undeniably entitled to special consideration while dealing with the question of bail, in terms of the proviso to Section 437(1) of the CrPC.

24. It is not disputed that the applicant was enlarged on interim bail in both the cases for a period of two months in the year 2022 and she did not misuse the liberty. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

25. 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, on the following conditions:

- a) She 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 cases, in any manner whatsoever;
- b) She shall under no circumstance leave the boundaries of the country without the permission of the Trial Court;
- c) She shall appear before the learned Trial Court as and when directed;
- d) She shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;
- e) She shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

26. 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 bails.

27. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications 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.

28. The bail applications are allowed in the aforementioned terms.

29. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

AUGUST 13, 2024

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