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

+ **BAIL APPLN. 2320/2024 & CRL. MA 19573/2024**

MUKESH

.....Petitioner

Through: Mr. B.K. Patra, Mr. Satyajit Patra,
Ms. Khushboo Gupta and Ms. Kiran
Yadav, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Manjit Arya, APP for State with
Inspector Arun Kumar PS Adarsh
Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

10.12.2024

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1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 378/2021 registered under Sections 302/392/394/395/396/397/411/34 IPC at Police Station Adarsh Nagar, Delhi.

2. Learned counsel for the applicant submits that the applicant is in custody since 30.07.2021 and that the prosecution has cited 28 witnesses, out of which, 9 have already been examined. He further submits that as per the prosecution case, it is the co-accused who had inflicted the injuries on the person of the deceased in the intervening night of 28.07.2021 and 29.07.2021, at about 03:50 AM. He also submits that the applicant is neither shown to be present at the spot of the incident nor had he taken part in the alleged incident. Moreover, it is stated that though against the co-accused, the prosecution has cited an eye witness, namely *Ram Parvesh Yadav* (PW-



3), even he had turned hostile inasmuch as he had not identified the assailants.

3. Learned APP for the State, on the other hand, has opposed the bail application by contending that it is the present applicant who is the mastermind and has guided the co-accused persons in committing the offence. In this regard, she submits that during investigation, CDR details of all the accused persons were collected and on the analysis of which, it has come to fore that the present applicant was present around the spot and was in constant touch with the other accused persons by way of mobile phone. She also submits that there were number of calls exchanged between the applicant and the co-accused persons. Further, the robbed articles of the deceased in the form of his Voter-ID Card, copy of his Aadhar Card and an amount of Rs.4,300/- were also recovered at the instance of the present applicant. Lastly, it is stated that the applicant is also involved in four other cases.

4. I have heard learned counsels for the parties and perused the record.

5. As per the case of the prosecution, the body of the deceased was discovered on 29.07.2021 by the PCR van. Initially, the FIR was registered under Sections 279/304A IPC and subsequently, the statement of eyewitness *Ram Parvesh Yadav* was recorded, who stated that the deceased was known to him and lived in the adjacent rented accommodation and that, on the night of the incident, i.e., on 29.07.2021, at about 03:50 AM, he left his house to go to *mandi*. He further stated that the deceased was ahead of him by 20-25 meters and when he crossed the road from Jahangir Puri to *Mandi* near Pillar No.89, Adarsh Nagar Metro Station, Gate No.2, four boys caught hold of the deceased and gave him beatings. The witness further stated that thereafter he



ran away from the spot and later came to know about Jitender/deceased had succumbed to the injuries.

6. Concededly, the only material cited against the present applicant is of CDR location and call connectivity with the other accused persons as well as the recovery of robbed articles at his instance. Learned APP has submitted that the motive of commission of the present offence was robbery and there is no allegation of it being a planned robbery. Considering the aforesaid, this Court is inclined to admit the applicant on regular bail and it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty JMFC and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
 - ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
7. The bail application is disposed of in the above terms.



8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.
9. Copy of the order be uploaded on the website forthwith.
10. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

DECEMBER 10, 2024/rd