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

+ **BAIL APPLN. 2402/2024**

KRISHAN

.....Applicant

Through: Mr. J.P. Singh &
Mr. Hemant Sharma,
Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
Inspector Yogendra
Kumar & Inspector
Rajneesh, PS- Sultanpuri

+ **BAIL APPLN. 2620/2024**

MANOJ MITTAL

..... Applicant

Through: Mr. Akshay Bhandari, Ms.
Megha Saroa, Mr. Anmol
Sachdeva, Mr. Kushal
Kumar & Mr. Janak Raj
Ambawat, Advs.

versus

STATE (GOVT OF NCT OF DELHI)Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
Inspector Yogendra
Kumar & Inspector
Rajneesh, PS- Sultanpuri

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **14.08.2024**

CRL.M.A. 21768/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.



BAIL APPLN. 2402/2024
BAIL APPLN. 2620/2024

3. The present applications are filed seeking regular bail in FIR No. 2/2023 dated 01.01.2023, registered at Police Station Sultan Puri, for offences under Sections 279/304A of the Indian Penal Code, 1860 ('IPC'). The chargesheet was filed against the applicants for the offences under Sections 302/201/212/182/34/120B of the IPC.

4. The FIR was registered pursuant to a complaint given by SI Hemant Jangid, alleging that upon receiving DD No. 19A dated 01.01.2023, and upon reaching the location, a scooter, in an accidental condition was found. It is alleged that thereafter several PCR calls were received, and upon investigation a deceased girl's body lying in a naked and accidental condition was discovered. It is alleged that thereafter, upon further investigation, a Baleno Car was allegedly found to be involved in the accident.

5. The learned counsel for the applicants submits that the applicants have been falsely implicated in the present case and they have clean antecedents.

6. They submit that there is no eye witness of the alleged incident and the investigating agency had falsely created an eye witness, namely, Nidhi about two days after the alleged incident.

7. They submit that the testimony of PW Nidhi is doubtful as she has given no explanation as to why she kept mum for two days. Further, her testimony is also doubtful as her statement was recorded after the arrest of the accused persons.

8. They submit that the applicants were not driving the car and were merely sitting on the passenger seat, and did not cause the accident. They submit that the applicants had asked the



driver, who was allegedly drunk, to stop the vehicle.

9. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicants.

10. He submits that the allegations levelled against the applicants are heinous in nature. He further submits that the eye witness Nidhi had identified the applicants and seen them sitting in the car at the time of the accident.

11. He submits that the accused persons had stopped the vehicle just about 500 meters away from the place of the incident and gotten down to check whether the victim was still stuck under the car.

12. He submits that the accused persons had multiple opportunities to save the victim.

13. He further submits that the trial is at the initial stage and material witnesses are still to be examined.

14. 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 witness being threatened; etc.

15. At this stage, this court only has to observe as to whether there is a *prima facie* case against the accused. In ***Kanwar Singh Meena v. State of Rajasthan* : (2012) 12 SCC 180** where it was reiterated that at the stage of granting of bail an elaborate examination of evidence and detailed reasons touching the merits of the case which may prejudice either of the parties should be



avoided, and the court has to only observe as to whether there is a *prima facie* case against the accused.

16. The applicants have been made accused in the chargesheet alleging that they were aware that the victim would be killed when the driver of the car stopped the car to look. The victim at that time was stuck under the car and despite being aware, the driver drove further. It is alleged that the applicants, despite being aware that the act of driving further would kill the victim, did not stop the driver and, in fact, sat with him.

17. It is not alleged that the applicants at any stage were driving the vehicle which was being driven over the victim. The allegation is that the act committed by the accused persons was so imminently dangerous that it involves the probability to cause death or such bodily injury as is likely to cause death. Admittedly, the act is done by the driver.

18. While the nature of the offence is heinous, and the applicants were admittedly passengers of the said vehicle which caused the accident, at this stage, it cannot be said that the applicants had the intention to cause the said accident. It is the contention of the applicants, that they had allegedly asked the driver to stop the car.

19. The applicants, it appears are sought to be made accused by invoking the provisions of Section 120B of the IPC which makes every person guilty who is part of the criminal conspiracy to commit an offence. Whether the applicants conspired with the driver to commit an act which was so imminently dangerous that in all probability would cause death or such bodily injury as is likely to cause death of the victim is a matter of trial. It cannot, *prima facie*, be alleged that solely for the reasons that the applicants were sitting in the same vehicle or were aware that the



victim was caught under the vehicle and still the vehicle was being driven, they are guilty of criminal conspiracy. The same would be tested at the time of trial.

20. 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. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

21. The applicants are in custody since 01.01.2023 and the chargesheet has already been filed. On being asked, it is pointed out that only six witnesses have been examined and as yet the trial is not likely to conclude expeditiously.

22. The applicants are admittedly residents of Delhi.

23. In the opinion of this Court, no purpose would be served by keeping the applicants in further custody.

24. Considering the aforesaid discussion and without commenting further on the merits of the case, the applicants are directed to be released on bail on furnishing a bail 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 applicants 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 applicants shall under no circumstance leave the boundaries of the country without the permission of the learned Trial Court;
- c. The applicants shall appear before the learned Trial



Court as and when directed;

- d. The applicants shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicants shall, upon their release, give their mobile number to the concerned IO/SHO and shall keep their mobile phone switched on at all times.

25. In the event of there being any FIR/ DD entry/ complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

26. 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.

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

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

AMIT MAHAJAN, J

AUGUST 14, 2024