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

+ **BAIL APPLN. 2424/2024**

**PRAVEEN KUMAR**

.....Petitioner

Through: Mr. M.L. Yadav, Mr. Harish Chand,  
Mr. Anant Chittoria and Ms. Neha,  
Advocates.

versus

**STATE (NCT OF DELHI) & ANR.**

.....Respondents

Through: Mr. Aman Usman, APP for the State.  
Inspector Sandeep, PS Delhi Cantt. &  
Inspector B.M. Bahuguna, Vigilance  
Branch.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**  
**23.09.2024**

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1. Petitioner has approached this Court seeking Bail in FIR No.77/2019, dated 11.03.2019, registered at Police Station Delhi Cantt, for offences under Sections 302 IPC.
2. The facts of the case reveal that on 11.03.2019, a PCR call was received at Police Station Delhi Cantt. vide DD No.10A wherein the caller informed about a dead body lying in the drain near Tigris Road, Sadar Bazar, Delhi Cantt. It is stated that on receiving the information, the Police reached the spot and met the caller, Vijay, who told the Police that he is a sweeper and he saw a dead body in the drain near Tigris Road, Sadar Bazar, Delhi Cantt. The dead body was taken out of the drain. The deceased was identified as Sonu S/o Balwant Singh. The deceased had deep injuries on the

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face and head and the clothes of the deceased were stained with blood. The dead body was sent to Deen Dayal Hospital for post-mortem. Present FIR was registered and investigation was carried out.

3. Postmortem of the deceased was conducted on 12.03.2019 wherein the opined that the cause of death is crania cerebral injury and all the injuries were antemortem in nature.

4. During investigation, the last seen witness – Vijay, was examined and he stated that he saw the Petitioner herein and the CCL with the deceased on 10.03.2019. Petitioner herein was arrested on 14.03.2019. During the course of investigation CCTV footage of the area was obtained and as per CCTV footage the deceased was last seen with the Petitioner herein and the CCL and they all were seen proceeding towards Tigris Road on scooty. In the CCTV footage the Petitioner herein was seen riding the scooty and the deceased and the CCL were riding pillion on the scooty. It is stated that the CCTV footage further shows that after parking the scooty all the three went towards the drain and after some time the Petitioner herein and CCL were seen coming back towards the scooty while the deceased didn't return. During investigation CDR of the accused and the deceased were also obtained and as per CDR and location chart, the deceased and the Petitioner herein and the CCL were found in the same location where the alleged crime was committed.

5. Charge-sheet was filed. Charges have been framed against the Petitioner for offences under Section 302 IPC. Trial has commenced and all the independent witnesses have been examined. The last seen witness, i.e. Vijay has turned hostile.

6. The Petitioner has now approached this Court seeking bail.



7. It is stated by the learned Counsel for the Petitioner that the Petitioner is in custody since 14.03.2019. He states that the Petitioner was released on interim bail during Covid-19 from January, 2022 to April, 2023 and the Petitioner has not abused the interim bail. He states that all the independent witnesses have been examined and only Police witnesses are left to be examined and, therefore, there is no danger of the Petitioner influencing the witnesses. He further states that the last seen witness, i.e. Vijay, has turned hostile. He also states that the CCTV footage is in the custody of the Police and, therefore, there is no danger of the Petitioner tampering with evidence. He also states that conditions can be imposed on the Petitioner to ensure that he does not flee from justice. He, therefore, prays that the Petitioner be granted bail.

8. *Per contra*, learned APP for the State and the learned Counsel for the Complainant vehemently oppose the present bail application stating that the petitioner is involved in a very heinous crime and he can be awarded death sentence. He states that the CCTV footage is a clincher inasmuch as it establishes that the Petitioner was last seen at the scene of crime along with the deceased wherein the Petitioner along with the CCL and the deceased were seen going towards the drain but only the Petitioner herein and the CCL returned from the drain. He states that even though the last seen witness has turned hostile but CCTV footage is sufficient to convict the Petitioner herein.

9. Heard the Counsels for the parties and the learned APP for the State and perused the material on record.

10. The parameters to be considered for grant of bail have been succinctly laid down by the Apex Court and the Courts have to see the



following while allowing or rejecting a bail application:

- a. nature and gravity of the charge;
- b. severity of the punishment in case of conviction;
- c. reasonable apprehension of witness being influenced;
- d. prima facie or reasonable ground to believe that the accused had committed the offence;
- e. character, behaviour, means, position and standing of the accused;
- f. danger of justice being thwarted by grant of bail.

(Refer: Ram Govind Upadhyay vs. Sudarshan Singh and Others, (2002) 3 SCC 598 and Prasanta Kumar Sarkar vs. Ashis Chatterjee and Another, (2010) 14 SCC 496)

11. Petitioner is in custody since 14.03.2019. The present case is one of circumstantial evidence. He was granted interim bail during Covid-19 period and he has not abused the interim bail granted to him and has surrendered on the expiry of the interim bail. All the independent witnesses have been examined and only Police witnesses are left to be examined, who cannot be influenced. The CCTV footage is also in the custody of the Police and, therefore, it also cannot be tampered with by the Petitioner.

12. In view of the facts and circumstances of this case, the possibility of the Petitioner influencing the witnesses or tampering with evidence is very remote. It is well established that bail is neither preventive nor punitive and is granted or denied only on the basis of the parameters laid down under Section 438 and 439 Cr.P.C and the Judgments passed by the Apex Court. Applying the said parameters to the facts of this case, this Court is inclined to grant bail to the petitioner on the following conditions:



- a) The petitioner shall give a security in the sum of Rs.50,000/- with two sureties of the like amount to the satisfaction of the Trial Court;
  - b) The Petitioner is directed to continue to reside at the address given in the Memo of Parties before this court and in case there is any change in the address of the Petitioner, the Petitioner is directed to intimate the same to the Investigating Officer.
  - c) The Petitioner is directed not to leave the city of Delhi without prior permission of the concerned Court.
  - d) The Petitioner is directed to report to the local police station thrice in a every week, i.e. on every Monday, Wednesday and Friday at 10:00 AM and the Petitioner shall be released within half an hour after completing the formalities;
  - e) The Petitioner is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times;
  - f) The petitioner shall not, directly or indirectly, tamper with evidence or try to influence the witnesses in any manner;
  - g) The petitioner shall attend all the Court proceedings.
  - h) In case it is established that the petitioner has tried to influence the witnesses or tamper with the evidence, the bail granted to the petitioner shall stand cancelled forthwith.
13. The bail application is disposed of, along with all the pending application(s), if any.
14. Be it noted that this Court has not made any observations on the



merits of the case.

**SUBRAMONIUM PRASAD, J**

**SEPTEMBER 23, 2024**

*Rahul*