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

+ **BAIL APPLN. 3461/2023**

BISHU SAHA

..... Petitioner

Through: Mr. B.K. Jha, Mr. Manoj Kumar, Ms.
Komal Jha and Mr. D.K. Singh, Advs.

versus

STATE GOVT. OF NCT DELHI

..... Respondent

Through: Mr. Raghuvinder Verma, APP for
State with Inspector Vikas Dabas

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

23.04.2024

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1. The present petition has been filed seeking regular bail in connecting with FIR No.296/2018 under Sections 302/201 of the Indian Penal Code, 1860 registered at Police Station Prasad Nagar.
2. The case of the prosecution is that the complainant had received a call that his father was stabbed by someone. The complainant reached the spot and found that his father was lying in a pool of blood. The injured was taken to the hospital where he was declared brought dead. This led to the registration of the aforesaid FIR.
3. Learned counsel appearing for the petitioner submits that the sole eyewitness namely Pawanjeet Singh Bhatia who was examined as PW4 has not supported the case of the prosecution. In support of this contention, the attention of the Court has been drawn to the testimony of PW4.
4. He further submits that one of the incriminating substance in the case is that the petitioner is seen in the CCTV footage that was recorded in the



DVR, but the said DVR has not been proved on record.

5. In so far as the other witness i.e. son of the deceased, who was examined as PW2 and wife of the deceased, who was examined as PW3 are concerned, the submission of the learned counsel is that they are only hearsay witnesses, inasmuch as they were not present at the spot. According to their version they were informed by someone telephonically about the injuries having been inflicted on the deceased.

6. He further submits that the petitioner has been in custody for almost four years. In support of his contention, he invites the attention of this Court to the nominal roll wherefrom it is borne out that as on 29.11.2023, the custody period of the petitioner was 3 years, 2 months and 14 days. He further submits that the petitioner does not have any criminal record.

7. *Per contra*, learned APP has argued on the lines of the status report. He refers to the statement of Vineet Jain/PW6 to contend that the DVR was seized and the seizure memo has been exhibited by the said witness.

8. I have heard the learned counsel for the petitioner as well as APP for the State and perused the record.

9. A perusal of the testimony of PW4, the sole eyewitness cited by the prosecution shows that he has not supported the case of the prosecution. He was also cross-examined by the learned Chief Public Prosecutor for the State but nothing material could be elicited in the said cross-examination as well. Another witnesses i.e. son and wife of the deceased, who were examined as PW2 and PW3, respectively, are only hearsay witnesses.

10. A perusal of the testimony of PW6 shows that the said witness has only proved the seizure memo but no DVR has been proved by the said witness.



11. On a query put by this Court, learned APP on instructions from the IO fairly states that the antecedents of the petitioner are clean. It is also not the case of the prosecution that the petitioner is a flight risk.

12. Considering the aforesaid circumstances, this Court is of the view that the petition has made out a case for bail. The petitioner is granted regular bail subject to his furnishing Personal Bond of Rs. 25,000/- and one Surety Bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

13. The petition stands disposed of.

14. Needless to say that the observations made herein above are for the limited purpose of deciding the present bail application and the same shall not be construed to be an expression of opinion on merits of the case.

15. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

APRIL 23, 2024/ns