



\$~19

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3488/2023**
ANTAJ ANSARI IN JC

..... Petitioner

Through: Ms.Usha Yadav & Mr.Amit
Yadav, Advs.

versus

STATE

..... Respondent

Through: Mr.Aman Usman, APP
ACP K.P Malik, Insp. Harpal
Singh & SI Kartar Sing, PS
Uttam Nagar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **16.01.2024**

1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'CrPC'), seeking release on bail in FIR No. 0828/2016 registered with Police Station Uttam Nagar, West under Sections 302/201 of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that on 27.11.2016, a PCR call was received in the Police Station Uttam Nagar that a half burnt dead body was found on plot no - 06, K-1, Extension, Jaildar Enclave, Mohan Garden, Uttam Nagar, New Delhi. The police party found the half burned body with injury marks on the head and other injury marks were also present on the body. Pursuant thereto, the above FIR was registered and investigation was carried out. In the post mortem of the deceased, the doctor opined that death was caused due to head injury consequent upon blunt force trauma to the head. The Doctor



also opined that “the possibility of head injury being inflicted in homicidal manner can’t be ruled out” and “all the burn injuries possibly occurred after death”.

3. The prosecution further alleges that on 22.12.2016, the co-accused Devender @ Bale was arrested along with the applicant in relation to FIR No. 204/2016 registered with Police Station: Crime Branch, New Delhi, and they disclosed their involvement in the present case. They were arrested in relation to the present case on 26.12.2016, and during the investigation, they confessed to having murdered one Salman @ Rahim on the intervening night of 25.11.2016. In their statement, they stated that they had taken the deceased to the first floor of the house, where the applicant attacked the deceased’s head with a brick, while the co-accused Devender @ Bale attacked the deceased with an iron rod. Thereafter, the applicant attacked the deceased with a knife. As the deceased fell unconscious, they wrapped the body in a blanket, tied the same with the electric wires, and took it on a motorcycle to dump it in the garbage on a vacant plot. The next morning, they revisited the plot where the body was dumped to ascertain whether the deceased was still alive and thereafter they set the garbage on fire.

4. It is alleged that during the course of the investigation, the electric wires, brick, and iron rod used by the accused persons in the commission of the murder were recovered and seized on the instance of the accused persons. The FSL report has also been received and it shows the presence of the blood of the deceased in the house of the applicant.



5. The learned counsel for the applicant submits that the case against the applicant is based only on circumstantial evidence, the primary being that the applicant was residing in the house owned by the deceased as a tenant. She submits that the applicant has been in custody since 26.12.2016. The co-accused has been discharged by the order dated 01.03.2018 passed by the learned Additional Sessions Judge. She submits that there is no other criminal case pending against the applicant and the applicant has been falsely implicated in the present case. She submits that even the identification of the body of the deceased is not proper. She finally submits that though 18 witnesses have been examined so far, there are another 16 witnesses yet to be examined by the prosecution. The applicant has already suffered incarceration of more than 4 years and 6 months.

6. On the other hand, the learned APP submits that the circumstantial evidence against the applicant is fully corroborated from the fact that the blood of the deceased was found in the house of the applicant. There is also the recovery of an iron rod and electric wires at his behest, which also supports the manner in which the deceased is reported to have suffered death. He submits that as the trial is moving expeditiously, there is no reason for releasing the applicant on bail.

7. I have considered the submissions made by the learned counsels for the parties.

8. As noted hereinabove, the applicant has already suffered custodial incarceration of more than 4 years and 6 months. His conduct in the jail is reported to be satisfactory. He was earlier



released on *interim* bail, which indulgence he did not misuse and surrendered on expiry of the term thereof. Sixteen witnesses are yet to be examined by the prosecution. The case of the prosecution is based mainly on circumstantial evidence and there is also no other criminal case reported in which the applicant has been involved.

9. Keeping in view the above, the applicant is directed to be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. Applicant shall provide his permanent address to the learned Trial Court. The applicant shall intimate the learned Trial Court by way of an affidavit and to the IO regarding any change in the residential address.
- iii. Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. Applicant shall provide his mobile numbers to the IO concerned, which shall be kept in a working condition at all times and shall not be switched off or changed without prior intimation to the IO concerned. The mobile location shall also be kept on at all times.
- v. Applicant shall report before the concerned IO every 15 days.
- vi. Applicant shall not communicate with or come in contact



with any of the prosecution witnesses, the victim or any member of the victim's family or tamper with the evidence of the case while being released on bail.

vii. Applicant shall not indulge in any criminal activity.

10. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the matter.

11. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.

12. The Bail Application is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 16, 2024/rv/am

[Click here to check corrigendum, if any](#)