



\$~2

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

+ **BAIL APPLN. 3499/2023**

MEHFOOZ ANSARIApplicant

Through: Mr. Meghan, Adv.

versus

THE STATE (NCT OF DELHI)Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State with Mr.
Anil Kumar, Mr. Tarun
Gaur, Mr. Amandeep
Mehra, Ms. Monika Mehra,
Mr. Harleen Singh, Mr.
Gaurav Sehrawat, Mr.
Harkeerat Singh and Mr.
Hari Madhav Saran Rawat,
Advs. with SI Anugraha, PS
Welcome.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

31.07.2024

1. The present petition is filed under Section 439 of the Code of Criminal Procedure ('CrPC') read with Section 482 of the CrPC for grant of regular bail in FIR No.247/2021 dated 07.05.2021, registered at P.S. Welcome, for an offence under Section 302 of the Indian Penal Code, 1860 ('IPC').

2. On 06.05.2021, a PCR call was received about a person being stabbed. It is alleged that the injured victim, namely, Ballu had been taken to the hospital. The victim thereafter expired.

3. The co-accused was apprehended by the public while he was trying to escape with the knife after inflicting the injuries. It is alleged that the co-accused threw the knife in the street after being

BAIL APPLN. 3499/2023

Page 1 of 4



apprehended by the members of the public.

4. The co-accused was arrested on 07.05.2021. During the investigation, the co-accused allegedly made a disclosure statement in which he revealed that he was accompanied by the applicant when he committed the crime.

5. The applicant was then apprehended on 09.05.2021. During interrogation, the applicant allegedly admitted to the crime.

6. It is the case of the prosecution that the deceased had lent Rs. 5000 to the co-accused six months before the incident. The co-accused is the son of the applicant. The accused persons invited the deceased and his friend, namely, Gaurav (PW-1) to their home on the pretext of returning the borrowed money. Upon arrival of the deceased and the PW1 to their house, the co-accused stated that he will go upstairs to get the money. However, when he returned, the accused grabbed the hands of the deceased from the back while the co-accused stabbed him multiple times. It is alleged that the accused and co-accused also wanted to kill the PW-1, however, he was able to run and escape from them.

7. The learned counsel for the applicant submits that the only role attributed to the applicant is holding the deceased from behind when the co-accused inflicted knife injuries on the deceased. He submits that the applicant is a 65 year old man with physical disability and it is implausible that he was able to restrain a strong young boy.

8. He submits that the family comprises of his old wife, total of 9 daughters out of which 6 are married, 2 minor daughters aged about 13 and 15 years who have been forced to leave studies due to financial constraints after the incarceration of the applicant.

9. He submits that the applicant has clean antecedents and is the sole bread earner of the family.

BAIL APPLN. 3499/2023

Page 2 of 4



10. *Per contra*, the learned Additional Public Prosecutor ('APP') for the state opposed the present bail application by submitting that the offence committed by the applicant is heinous in nature.

11. He submits that the PW-1 has fully supported the case of the prosecution and correctly identified both the accused persons in court.

12. He submits that the charges have already been framed and the matter is at the stage of prosecution evidence.

13. 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.

14. 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.

15. The offence and the manner in which it is committed is heinous in nature. The incident was witnessed by PW-1, who categorically deposed that the co-accused, Mehboob, took out a knife and started stabbing the victim and at that time the applicant was holding the victim from behind. The applicant has also been

BAIL APPLN. 3499/2023

Page 3 of 4



named by the co-accused in his disclosure statement. The sanctity and evidentiary value of the disclosure of the co-accused is a matter of trial. However, it cannot be denied that there is no reason for a son to falsely implicate his father in the commission of the offence.

16. It is true that the long period of incarceration has to be kept in mind while considering the application of bail. However, when the record, *prima facie*, indicates towards the guilt of the accused, specially in such a heinous crime where a young person of 17 years of age had lost his life, no relief can be given. The applicant, if convicted, would have to undergo rigorous imprisonment for life.

17. Thus, considering the nature of the allegations, the severity of the punishment and the *prima facie* perusal of the record, this Court is of the opinion that the applicant is not entitled for any relief.

18. The present application is, therefore, dismissed.

19. It is made clear that the observations made in the present order is only for the purpose of deciding the present bail application and should not be taken as an expression of opinion on the merits of the case and should not influence the outcome of the trial.

20. Considering that the applicant is in custody for more than three years, the learned Trial Court is directed to expediate the examination of the witnesses.

AMIT MAHAJAN, J

JULY 31, 2024