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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2604/2024**

SUBHASH @ KALU

.....Petitioner

Through: Mr. Kanwarpreet Singh and Mr.
Tejasva Mehra, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
along with SI Sandeep Kumar P.S.
Ambedkar Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.10.2024

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1. By way of the present application, the petitioner/applicant seeks regular bail in FIR No.609/2016 registered under Sections 302/34 IPC at P.S. Ambedkar Nagar, Delhi.
2. Learned counsel for applicant states that the applicant is in custody since 20.10.2016 and that out of the 21 witnesses cited, the prosecution has examined only 14 witnesses till date. It is further submitted that the present FIR was registered on the statement of one *Suresh Chand*, brother of the deceased, who has already been examined. A perusal of his statement/testimony would indicate that the identity of the present applicant is not clearly established. He also submits that the said witness has stated in his testimony that when he reached the spot of the alleged incident, he only saw 3-4 boys committing the offence/incident and that he did not see their faces. It is further stated that he came to know of the names of the assailants



only through public persons present at the spot, however, no independent person has been examined. Learned counsel further submits, on instructions, that on a court question, witness has further stated that he had seen the applicant only from the back side and identified him only on account of his built and structure. He also stated that he had never seen the assailants prior to the incident. Lastly, it is submitted that there is no TIP conducted in the present case.

3. The bail application is vehemently opposed by the learned APP for the State on the ground that the present FIR was registered on the statement of an eye witness i.e. the complainant. He submits, on instructions, that as per the prosecution case, the applicant along with another co-accused person, *Sunny*, caught hold of the deceased while the other co-accused persons, namely *Ashish* and *Pradeep* stabbed the deceased. Learned APP further submits that the applicant is involved in two other cases. Lastly, it is submitted that the earlier bail application of the applicant was dismissed by a Coordinate Bench of this Court vide order dated 01.08.2023. However, it is informed that the applicant was earlier released on two occasions, once under the HPC Guidelines, and once on interim bail, concessions which he did not misuse.

4. At this stage, learned counsel for the applicant submits that the co-accused, namely *Sunny*, having a similar role as the applicant in the commission of the alleged offence, has subsequently been released on regular bail by this Court.

5. I have gone through the testimony of the eye-witness, *Suresh Chand*. In his testimony, the eye-witness has stated that the assailants, including the applicant, were not known to him and that he had only seen them from the



back. Further, he had identified the applicant merely on the basis of his built and structure.

6. Considering the totality of the facts and circumstances, including the period of the custody as well as the fact that the applicant has earlier been released on two occasions, under the HPC Guidelines and on interim bail, a concession which he did not misuse, it is directed that the applicant be released on regular bail subject to him furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty J.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.

8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.



9. Copy of the order be uploaded on the website forthwith.
10. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

OCTOBER 08, 2024/ssc