



\$~2 & 3

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

+ **BAIL APPLN. 2675/2024 & CRL.M.A. 22326/2024**

AMIT

.....Applicant

Through: Mr. Rahul Thakur & Mr.
Narvir Singh, Advs.

versus

THE STATE (N.C.T. OF DELHI)

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
Insp. Rohit Gahlot, PS
Prem Nagar.

+ **BAIL APPLN. 3574/2024**

MUKESH

.....Petitioner

Through: Mr. Rishipal Singh & Ms.
Radha Rani, Advs.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
Insp. Rohit Gahlot, PS
Prem Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **25.10.2024**

CRL.M.A. 22325/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 2675/2024 & CRL.M.A. 22326/2024

BAIL APPLN. 3574/2024

3. The present applications are filed seeking regular bail in FIR No.432/2019 dated 16.08.2019, registered at Police Station Prem Nagar, for offence under Sections 302/34 of the Indian



Penal Code, 1860.

4. The FIR was registered on a complaint made by the mother of the victim. It is alleged that the accused persons, including the applicants, were in a fight with the victim and inflicted a knife blow on him which led to his death. It is alleged that the accused persons were sitting in front of the house of the victim and were consuming alcohol. When the victim asked the accused persons to stop, they quarrelled with the victim. Thereafter, the applicants caught hold of the victim and the accused Sudhir inflicted the knife blow on the victim.

5. Both the applicants were arrested on 16.08.2019 and have been in custody since then.

6. The learned counsel for the applicants submit that both the accused applicants were young persons aged around 20-21 years at the time of incident.

7. They submit that even if the case of the prosecution is taken at the highest, the quarrel took place between the applicants and the victim at the spur of the moment when the victim tried to stop the accused persons from consuming alcohol in front of his house.

8. They submit that the injury was caused to the victim by the accused Sudhir and not by the applicants and the allegations against the applicants were that they were holding the victim.

9. They submit that the injury even as per the case of the prosecution was, a single blow given by the co-accused on the thigh of the victim, and in such circumstances, the applicants cannot be prosecuted for offence under Section 302 of the IPC.

10. The learned Additional Public Prosecutor for the State submits that the MLC of the victim clearly indicates that the



injury inflicted to the victim was sufficient to cause death.

11. He submits that the argument that the thigh is not a vital part of the body is fallacious. He submits that in the present case, a single injury to thigh has caused death of the victim which categorically affirms that the thigh is in fact a vital part of the body.

12. He further submits that the prosecution witnesses have categorically deposed the involvement of the applicants in the commission of the crime where the accused persons with a premeditated intention had inflicted the injury with the intention to kill the victim.

13. I have heard the counsel and perused the record.

14. 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 witnesses being threatened; etc. However, at the same time, the period of incarceration is also a relevant factor that is to be considered.

15. It is not disputed fact that a single knife injury was inflicted on the thigh of the victim. The said solitary injury inflicted by a dangerous weapon, that is, a knife, led to the death of the victim. It is also not the disputed that although the accused persons knew the victim, however, the quarrel happened at the spur of moment as the accused persons were consuming alcohol in front of the victim's house. It is also not disputed that the



applicants had not inflicted the blow.

16. At this stage, *prima facie*, it cannot be said with certainty that the applicants had the intention to cause a particular injury that would have been sufficient in the ordinary course of nature to cause death. The same would be seen during the time of final arguments after the parties have led their evidence.

17. The applicants have been in custody since 16.08.2019. It is pointed out that out of the seventeen witnesses that have been cited by the prosecution in support of its case, only five witnesses have been examined as yet. In such circumstances, the trial is likely to take a considerable period of time. In the opinion of this Court, no purpose would be served by keeping the applicants in further custody.

18. Though the allegations raised against the applicants are serious in nature, however, the period of incarceration is also an important factor that has to be kept in mind while considering the application for bail. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

19. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeer* : AIR 2021 SC 712**, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

20. It is also relevant to note that the applicants were granted interim bail on account of the Covid-19 Pandemic. It is not alleged that they had misused the liberty.

21. In view of the above, the applicants have made out a *prima*



facie case for grant of bail.

22. The applicants are, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- each with two sureties of the like amount each respectively, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicants shall appear before the learned Trial Court on every date;
- c. The applicants shall, after their release, appear before the concerned Investigating Officer once in every month;
- d. The applicant shall provide the address where they would be residing after their release to the concerned IO/SHO and shall not change the address without informing the concerned IO/ SHO;
- e. The applicants shall, upon their release, give their mobile numbers to the concerned IO/SHO and shall keep their mobile phones switched on at all times.

23. In the event of there being any FIR/DD entry / complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

24. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the trial



and also not be taken as an expression of opinion on the merits of the case.

25. The bail applications are allowed in the aforementioned terms. Pending application also stands disposed of.

26. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

OCTOBER 25, 2024

“SK”