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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2683/2024**
PRAMOD KUMAR

.....Petitioner

Through: Mr. Prashant Yadav and Ms. Laxmi
Gaur, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
along with Inspector Om Prakash
Vishnoi and SI Vikash P.S.
Najafgarh.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
02.12.2024

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1. By way of the present application, the applicant seeks regular bail in FIR No. 405/2018 registered at P.S. Najafgarh, Delhi for the offences punishable under Sections 302/365/120-B/34 IPC & Section 25/27 Arms Act.
2. Learned counsel for the applicant that the applicant is in custody since 27.12.2018. He submits that till date only 15 out of 36 witnesses have been examined. He further submits that the prosecution in support of its case has relied upon the testimony of one *Shubham* who has been examined as PW-7 as a witness of 'last seen' circumstance. He submits that the said witness has not supported the prosecution case and besides the aforesaid, no other material has been cited against the present applicant.



3. The bail application has been opposed by learned APP for the State who submits that the present case came to be registered on a call received by PCR on 12.12.2018 vide DD No. 49A in which it was stated that “CALLER BOL RAHA HAI KI MERE BHAII KA 1.00 PM SE PHONE NAHI LAG RAHA HAI, USKI JAN KO KHATRA HAI, NEED POLICE HELP.” After recording of the DD entry, the complainant *Vijay Pal* was reached who informed that his brother *Praveen Rathore @ Kalu Banjara* was murdered and his body was lying behind CocaCola factory in Nangloi Industrial Area. He submits that the said *Vijay Pal* gave a disclosure statement mentioning the name of *Darshan Dabas*. The name of the applicant figured in the disclosure statement of *Shakti @ Dada*. He also submits that the applicant is also involved in other two cases of same nature i.e. FIR No. 144/2016 under Section 302/201/120B IPC and 25/27 Arms Act & FIR No. 137/2019 registered under Sections 25/27/54/59 Arms Act and 186/353IPC. He fairly submits, on instructions, that besides the evidence of last seen, the other material cited along with chargesheet was the CDR location chart of the applicant showing his presence at the spot around the scene of crime throughout the day of the incident. Lastly, it is stated that bail application of co-accused *Darshan Dabas* being BAIL APPLN No. 1134/2024 came to be dismissed by a Coordinate Bench of this Court on 16.08.2024.

4. At this stage, learned counsel for the applicant submits that the applicant already stands discharged in FIR No. 144/2016 and in FIR No. 137/2019 final arguments have already been addressed and the maximum punishment stipulated for the offence therein is 3 years.

5. I have heard learned counsel for the applicant and learned APP for the State and gone through the records.



6. The witness of circumstance of 'last seen' namely *Shubham* was examined as PW7. In his examination-in-chief, the witness has deposed that he knew nothing about the case. Even in his cross-examination, no incriminating allegation came against the applicant. He also did not identify the car which was allegedly driven by the applicant. Insofar as dismissal of the bail application of the co-accused *Darshan* is concerned, a perusal of order would show that the said accused was in judicial custody for only about two and half years. Further, the testimony of PW8, i.e. *Vijay Pal* was cited against him. The weapon used in the offence was also recovered at his instance in another case being FIR No. 329/2019 registered for offences under Section 186/353/307/506 IPC & Sections 25/27 Arms Act. The said accused was also declared as Proclaimed Offender and as per Nominal Roll, he was involved in seven cases with a conviction in an offence relating to FIR registered under Section 302 IPC. The factual situation as noted in the dismissal order of co-accused is different, however, considering the facts of the present case, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty J.M.F.C/Link JMFC 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

DECEMBER 02, 2024/ssc