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

+ **BAIL APPLN. 3870/2023**

AKSHAT@KAKU

..... Applicant

Through: Mr.Pranay Ranjan, Mr.Sanjay
Kumar, Mr.Amulya Anand and
Mr.Sushil Kr. Sharma, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Ms.Priyanka Dalal, APP with
Insp. Naveen Kumar and Insp.
Anil Kumar

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

29.01.2024

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1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for being released on Regular Bail in FIR No. 0420/2023 registered at Police Station: Samaipur Badli, Delhi under Sections 323/341/304/34 of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that the above FIR has been registered on the basis of the statement made by the injured- Sh.Vinay @ Vicky, wherein he stated that, on 30.04.2023 at about 8.15 PM, he had gone to *gali* near House No. C-101, Yadav Nagar, Delhi for parking of his car, but the motorcycle of his neighbour- Sh.Atul was parked there. When he asked Sh.Atul to move the motorcycle, his uncle, namely, Sh.Vinod, cousin, that is the applicant herein- Sh.Akshat @ Kaku, and a few others started quarrelling with him and



started beating him with *danda/lathi*. When his father tried to intervene, they also quarrelled with him and due to the scuffle, his father fell down and lost consciousness. He was rushed to Dr. BSA Hospital, Rohini, Delhi where he was declared as 'brought dead'.

3. The learned counsel for the applicant submits that it was, in fact, the complainant, that is Sh.Vinay, who started the quarrel and took out the *danda/lathi* from his car. Upon seeing the altercation, the deceased came out of the house and tried to intervene. As the deceased was himself suffering from a heart ailment, as is reflected in his post-mortem examination report which *inter alia* states that his heart was enlarged and about 90% to 95% blockage was present in his left coronary artery and its arterial branches at places, the deceased suffered a sudden heart attack and died. He submits that, in fact, the Complainant himself has criminal antecedents, while the applicant is aged around 22 years and is a student of BA final year and he has no other criminal record. He submits that the applicant has been in custody for more than 7 months.

4. The learned APP for the State hands over a copy of the Status Report. The same is taken on record.

5. She submits that the Complainant has sustained injuries which were, laceration (approx. 3 x 0.5 cm) over right ear and abrasion on arms and other places. She submits that the learned Trial Court has listed the trial for arguments on framing of charge on 11.03.2024. She submits that the opinion regarding the cause of death is still awaited. She further submits that the CCTV footage also shows a scuffle taking place at the spot.



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

7. It is apparent from the above that there was a scuffle at the spot, however, who initiated and who was the main perpetrator of that is yet to be determined in trial. From the post-mortem report, it is also evident that the deceased was suffering from major heart ailments. Even as per the complaint of the Complainant, he suddenly fell unconscious while trying to intervene in the scuffle. The applicant is stated to be a young boy of 22 years with no criminal antecedents. He has been in custody for more than seven months. He was earlier granted *interim* bail between 06.06.2023 and 27.06.2023 and he is not reported to have misused the indulgence.

8. Keeping in view the above facts and circumstances, the applicant is directed to be released on Regular 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 Ld. Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the Ld. Trial Court.
- ii. The Applicant shall provide his permanent address to the Ld. Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the Ld. Trial Court as and when the matter is taken up for hearing.



- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned. The mobile location be kept on at all times.
 - v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.
9. 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 merits of the matter.
10. The application is disposed of in the above terms.
11. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

JANUARY 29, 2024/ns/am

Click here to check corrigendum, if any