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

+ **BAIL APPLN. 2755/2024**

AYUSH

.....Applicant

Through: Mr. Nitin Salija & Ms.  
Ishita Soni, Advs.

versus

STATE (NCT OF DELHI) THROUGH SHO

.....Respondent

Through: Mr. Ajay Vikram Singh,  
APP for the State.  
SI Abhishek, PS Hari  
Nagar.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

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**12.09.2024**

**CRL.M.A. 23007/2024 (exemption)**

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

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3. The present bail application is filed seeking regular bail in FIR No. 699/2022 dated 10.12.2022, registered at Police Station Rajouri Garden, for offence under Sections 308/34 of the Indian Penal Code, 1860 ('IPC').

4. By order dated 28.07.2023, the applicant has been charged for the offence punishable under Sections 307/34 of the IPC, for which the maximum punishment is up to life imprisonment.

5. The bail application filed by the applicant on earlier occasion was dismissed by order dated 07.07.2023. This Court while rejecting the bail application noted that the injuries suffered by the victim were opined to be grievous in nature and

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the material witnesses are yet to be examined. It was noted that the possibility of the witnesses being threatened or influenced could not be ruled out since in the past there had been allegations of threats to the father of the complainant. It was also noted that one of the co-accused has already been declared proclaimed offender.

6. The order was challenged before the Hon'ble Apex Court. The Special Leave Petition (Crl.) No. 3973/2023 filed by the applicant was dismissed with liberty to the applicant to file a fresh application in case of change in circumstances or otherwise, disclosing grounds justifying grant of bail.

7. A fresh application was filed before the learned Trial Court. It was contended that the charges have already been framed which is a change in circumstances. The dismissal of the said bail application led to filing of the present application.

8. The learned counsel for the applicant submits that the applicant, pursuant to the dismissal of the bail application by order dated 07.07.2023, has been released on interim bail on a number of occasions and there are no allegations that any witness has been threatened.

9. He submits that the applicant is in custody for more than one year and the trial has not proceeded.

10. He submits that the injured victim has been partly examined and the matter is getting adjourned for want of FSL report.

11. H submits that the charges have subsequently been framed by order dated 28.07.2023 for the offence under Sections 307/34 of the IPC.

12. The bail application was rejected earlier specifically noting



that the possibility of the witnesses being threatened cannot be ruled out. Thus, this Court does not consider it apposite to entertain the present application when the examination of the injured victim is not complete. Mere framing of charges can also not be stated to be a change in circumstances.

13. The order sheet of the learned Trial Court indicates that the matter has been adjourned for the reason that the FSL report is still awaited.

14. On being asked, the learned Additional Public Prosecutor for the State has not been able to point out why the examination of the victim has been deferred and why the examination cannot be carried out in the absence of the FSL report.

15. Undisputedly, the FSL report is a corroborative piece of evidence. However, it is not clear as to why examination of the victim cannot be carried out in its absence.

16. The applicant has been in custody for more than one year. The learned Trial Court is directed to expedite the examination of the victim.

17. It is pointed out that the next date of hearing before the learned Trial Court is in November, 2024. The applicant is at liberty to file an application before the learned Trial Court for preponement of the examination of the victim.

18. The applicant is also at liberty to file an application afresh if the examination of the victim is not completed within a period of 3 months.

19. The application is disposed of in the aforesaid terms.

**AMIT MAHAJAN, J**

**SEPTEMBER 12, 2024**  
**“SK”**

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