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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3138/2019 & CRL.M.(BAIL) 2209/2019,**
CRL.M.(BAIL) 1603/2023
SHANKAR LAL Petitioner

Through: Mr. Archit Upadhyay and Mr. Piyush
Singhal, Advocates

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr. Manoj Pant, APP for the State
with Inspector Sandeep Rathi, P.S.
Madhu Vihar

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
14.02.2024

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1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case bearing FIR No. 425/2017 registered at Police Station Madhu Vihar, District Shahdara, Delhi for offence punishable under Section 302 of Indian Penal Code, 1860 ('IPC').
2. Briefly stated, the facts of the present case are that on 17.11.2017, the complainant/eyewitness had been present at his shop situated near DFMD Entry Gate of ISBT Anand Vihar, Delhi where at about 1:15 AM, two persons; victim/deceased and the accused/applicant had entered Anand Vihar ISBT, who were already arguing on something. One of them had



reached at the complainant's shop and purchased a Gutkha from his shop and they again started arguing with each other which turned into a scuffle. Thereafter, the present accused/applicant had allegedly hit the victim in the head with a bamboo stick and as a result the victim had fell down and blood had started oozing from his head. It is further stated that the injured had been taken to LBS hospital where he was declared dead and the injured was identified as Balbir. Thereafter, on the statement of complainant/eyewitness, the present FIR had been registered and the present accused/applicant had been arrested on 27.11.2017. After completion of investigation, a chargesheet was filed before the learned Trial Court.

3. Learned counsel for petitioner argues that the accused/applicant has been falsely implicated in the present case. Learned counsel further presses upon the fact that 4 material witnesses have not supported the case of the prosecution. The learned counsel for the petitioner further draws attention of this court to the inconsistencies in the statement of the complainant as compared with the post-mortem report of the deceased/victim. It is further stated that as all material witnesses have been examined the accused/applicant if released would not tamper with the prosecution evidence. Therefore, no useful purpose will be served keeping the applicant in prolonged incarceration. Hence in light of these circumstances the accused/applicant be granted regular bail.

4. Learned APP for the State on the other hand opposes the present bail application and argues that the applicant has committed heinous offence. It is further argued that PW-9 i.e., the doctor, has categorically deposed that injury inflicted on the victim had caused his death. It is further stated that the allegations in the FIR are serious in nature and that there are 24 witnesses in



the present case and few are left to be examined. In these circumstances, it is submitted that the present applicant may influence other witnesses. Therefore, the bail be rejected.

5. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused material on record.

6. In brief it is the case of the prosecution that there was scuffle between the present applicant/accused and the victim/deceased regarding something and the applicant/accused had threatened the victim of dire consequence. Subsequently, in heat of moment the applicant/accused had picked up a *danda* and assaulted the victim on his head. As a result, the victim had fallen down and was bleeding. Upon reaching the hospital the victim was declared dead. Subsequently, present FIR had been registered on the complaint of the eye witness.

7. In the instant case, the accused person had been identified by the eye witness/ complainant. As far as the contentions of the learned counsel for the applicant/accused are concerned that material witnesses have not supported the case of the prosecution. In this regard, it is stated that PW-9, i.e., the doctor in his examination has categorically stated that the cause of death of the victim was due to cranio cerebral damage caused by the blunt force/object impact on the head. Moreover, there are 24 witnesses in the present case and only 6 witnesses have been examined by the learned Trial Court. Considering the fact that the evidence is yet to be recorded and since the allegations are serious in nature, no ground for grant of bail is made out, at this stage.

8. Accordingly, the present application stands dismissed.



9. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

10. Further, this Court notes that the accused is in judicial custody since 27.11.2017. Learned Trial Court is requested to expedite the trial since only eight witnesses are remained to be examined. Let the trial be concluded within seven months. Learned Trial Court will ensure that no adjournment is granted to the parties.

11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 14, 2024/ns

Click here to check corrigendum, if any