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

+ BAIL APPLN. 4140/2023

DHARMENDER KUMAR Petitioner

Through: Mr. Arun Kr. Sharma and Mr. Ankit
Aggarwal, Advocates

versus

STATE THROUGH SHO PS CHHAWLA & ANR. Respondents

Through: Mr. Laksh Khanna, APP for State with
SI Dharamveer and Insp. Aishvir Singh

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

09.02.2024

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1. By way of present application filed under Section 439 Cr.P.C., the petitioner/applicant seeks regular bail in FIR No. 429/2019 registered under Section 302/34 IPC at P.S. Chhawala, Delhi.
2. Learned counsel for the applicant submits that the applicant has been in custody since 22.10.2019 and so far, only 5 out of 31 witnesses have been examined and that the trial is likely to take a long time. On merits, it is stated that the prosecution has cited as many as 5 eyewitnesses, who have not supported the case of the prosecution. As per the prosecution case, the deceased was accused of lifting the child of one *Shravan* noticing which, he was given beatings. It is alleged that the deceased was given beatings with fist and legs blows by the 5 accused persons out of whom, 4 have already been released on bail.
3. Learned APP for the State has vehemently opposed the bail application. He submits that though the eyewitnesses have turned hostile, however, at the time of cross-examination by the public prosecutor, they have identified the present accused as well as other co-accused persons in



the CCTV footage played in Court. He submits that as per the CCTV footage, the deceased was tied to a pole and was given beatings by all the accused persons including the present applicant. He submits that the role assigned to the applicant is that of hitting on the head of the deceased as well as giving continuous beatings by hand and legs.

4. I have heard the learned APP for the State as well as learned counsel for the applicant and have also gone through the material placed on record.

5. A perusal of the testimony of the witnesses as available in the police file shows that in their examination-in-chief, the eyewitnesses have not identified the applicant. However, in their cross-examination, they have identified the applicant. The role assigned to 5 accused persons is almost similar as all of them are alleged to have given beatings to the deceased. The deceased was tied to the pole by one *Lal Babu Ram@ Lalu*, who has also been released on bail. As per the Status Report, co-accused *Anil* had given beatings with danda/stick, who has also been released on regular bail. As per the post-mortem report, there were multiple injuries on the body of the deceased.

6. Keeping in view the aforesaid facts and circumstances including the fact that only 5 witnesses have been examined and that the trial is likely to take time; as also the fact that the applicant is not found involved in any other case; and that other co-accused persons have already been released on bail, the applicant is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of like amount to the satisfaction of the concerned Jail Superintendent/Duty M.M./Trial Court and subject to the following further conditions:-



- (i) The applicant shall not leave the NCT of Delhi without prior permission of the concerned Court.
 - (ii) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.
 - (iii) In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO 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 application stands disposed of in the above terms.
 - 8. Copy of this order be communicated electronically to the concerned Jail Superintendent for information.
 - 9. Copy of this order be uploaded on the website forthwith.
 - 10. Needless to state that 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 observations are only for the purpose of the disposal of the present application.

DASTI.

MANOJ KUMAR OHRI, J

FEBRUARY 9, 2024/na