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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2893/2024**
DEVVART RANA @ PAMMYPetitioner

Through: Mr. Aman Goyal and Mr. Gaurav
Kashyap. Advocates.

versus

STATE (GOVT OF NCT DELHI)Respondent

Through: Mr. Amit Ahalawat, APP for State
with Insp. Kapil Khattar, PS: Kamla
Market, Insp. Lalita Pawar.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
28.10.2024

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1. This petition has been filed seeking bail in FIR no. 30/2018, under Sections 302/365/34 IPC registered at PS Kamla Market, Delhi.
2. The petitioner was arrested on 02nd February, 2018 and has undergone custody for about 3 ½ years. He was released on interim bail on the basis of HPC guidelines in May, 2020 and surrendered himself in July, 2023. As per the Nominal Roll, there are no previous involvements.
3. The case of the prosecution is that on the intervening night of 30th & 31st January 2018, an accident had occurred in front of Kotha No.64, G.B. Road where four boys were found beating Shahzeb *alias* Pui claiming that he was a mobile thief, and they took him into a white colour car parked and drove off.
4. Later at about 4 a.m., a phone call was received from Dr. Babasaheb



Ambedkar Hospital, that Shahzeb had been admitted into a hospital in an injured state. Subsequently, Shahzeb expired during the course of treatment. PW-4 Mohammad Zamal had initially stated that he was present at that site when he saw four boys beating Shahzeb.

5. As per the status report, CCTV footage installed near the place shows that four persons can be seen holding and taking the Shahzeb with them. The mobile phone of the deceased Shahzeb was recovered from the glove box of the car (Swift Dezire). A sword with sheath was also discovered from the boot of the car. Four accused were arrested.

6. It is noted that out of 39 witnesses, 9 have been examined. The two alleged eye witnesses were PW-1 and PW-4. PW-1 (*Mohd. Anas*) has been examined, he has given testimony which is hostile to the prosecution's case. The mobile phone which was recovered from the deceased also did not belong to the deceased.

7. It is pointed out by counsel for petitioner that PW-1 has also stated in his testimony that he did not see or meet Mohd. Jamal (*PW-4*) at the place of occurrence on the fateful day.

8. As regards PW-4, his chief was recorded previously and he was partly cross-examined on 08th July, 2019, but since then has not come forward for further cross -examination. The witness is not traceable.

9. The order sheets of the Trial Court which have been handed up in the Court show that he has been successively summoned and the matter is pending for recording of his remaining testimony.

10. It is stated by APP that in the chief examination recorded, PW-4 identifies accused Sachin and the petitioner where he states that Sachin was standing along with the other offenders and accused petitioner caught hold of



the deceased.

11. Counsel for petitioner points out that merely on that basis of that statement he cannot continue to be in custody, also considering that the cross-examination of PW-4 has not been completed as yet where they would be entitled to confront him with the testimony of PW-1 and other circumstances.

12. It is also stated that *talwar* which was recovered from the petitioner's car could not have been involved since the forensic report stated that the death was due to effect of multiple injuries, cause due to blunt force/ surface impact as is evident from the MLC.

13. In these circumstances, the main eye witnesses have been hostile and the recovery of *talwar*, *prima facie* has no connection with the crime alleged to have been committed, the recovery of mobile phone is not linked to the deceased, there is no previous involvement of the petitioner and that the petitioner was released on interim bail and was out for about 3 years, as also that the trial is likely to take some time, the Court considered it fit to grant bail to the petitioner.

14. It is also noted that other co accused being Sachin and Gobinder Singh have been granted bail by this Court, whereas co-accused Gulshan was granted bail by the Trial Court.

15. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner.

16. Consequently, the petitioner is directed to be released on 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 Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner will mark presence physically before the concerned I.O. every first and third Tuesday of every month at 4 p.m, and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

17. Needless to state, but 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.



18. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
19. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
20. ‘*dasti*’
21. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 28, 2024/RK

Click here to check corrigendum, if any