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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2956/2024

FARID KHAN

.....Petitioner

Through: Ms. Babita Singh, Advocate.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Sonu Chahar and Inspector
Manmohan Singh, PS Seemapuri.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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19.09.2024

1. By way of present application filed under Section 483 BNSS read with Section 528 BNSS, the applicant seeks regular bail in FIR No. 329/2021 registered under Sections 302/120B/34 IPC at P.S. Seemapuri, Delhi.
2. Learned counsel for the applicant submits that the applicant is in custody since 19.07.2021 and that the present case relates to only circumstantial evidence in the form of last seen evidence. It is further stated that though the chargesheet came to be filed on 12.10.2021, even charge has not been framed till date. Further, the prosecution has cited 40 witnesses and the trial is yet to commence. Besides, learned counsel has also stated that the petitioner is suffering from various medical ailments including Hernia and cardiac issues.
3. The bail application is vehemently opposed by learned APP for the State, who submits that during investigation, it was discovered that the



applicant owed Rs. 10 lacs to the deceased, which came to be the motive for the applicant to hire the two co-accused, namely *Yogender* and *Naushad*, to carry out the offence. It is further submitted that on the date of the incident, the present applicant alongwith his brother *Rashid* can be seen talking to the aforesaid two co-accused persons, as captured in the CCTV footage. Thereafter, from another CCTV footage, it is apparent that after the said meeting, the two co-accused *Yogender* and *Naushad* had entered the house of the deceased and came out approximately after two hours. As per the postmortem report, the cause of death has been opined to be strangulation and the time since death relates back to the time when the aforesaid two co-accused were in the house of the deceased. He also submits that the charge is not framed as yet as the FSL report on the CCTV footage was pending, which has now been received. Furthermore, learned APP submits that during investigation, the statements of the son of the deceased as well as of the neighbours were recorded, wherein they had stated that the applicant owed Rs. 10 lacs to the deceased.

4. As noted above, the case is based on circumstantial evidence. The prosecution has relied on the CCTV footage of the incident to connect the offence with the present applicant. As per the prosecution case, the applicant is seen in the company of two co-accused about 20 minutes prior to them entering into the house of the deceased. Moreover, the motive is sought to be established only through the disclosure statement of the applicant as concededly, none of the witnesses have stated that there was any prior threat received by the deceased.

A medical status report dated 11.09.2024, under the signatures of Senior Medical Officer, Central Jail No. 13, Mandoli, has also been placed



on record. Perusal of the same would show that the applicant has been advised surgery for left inguinal hernia and has previously undergone COPD (Chronic Obstructive Pulmonary Disease) and CAD (Coronary Artery Disease). It is further stated therein that he was reviewed by the Cardiologist at AIIMS on 26.04.2024, whereafter he was advised to undergo CT Coronary angiography, which was carried out on 14.06.2024. The applicant also has an alleged history of Tuberculosis Spine (Potts Spine) and Pulmonary Tuberculosis. Besides deteriorating vision in the left eye, the applicant also has a prior history of traumatic optic nerve injury (neuropathy).

5. Considering the totality of the facts and circumstances and the role attributed to the applicant as well as the further fact that though he is in custody since 19.07.2021, the charge is yet to be framed, it is directed that the applicant be released on regular bail subject to him furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty J.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer 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.

6. The bail application is disposed of in the above terms.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that this Court has not expressed any opinion on the merits of the case and has made the observations only with regard to present bail applicant and 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 same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

SEPTEMBER 19, 2024
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