



\$~7

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

+ **BAIL APPLN. 3004/2024 & CRL.M.A. 25180/2024**

SAHAB SINGH

.....Applicant

Through: Mr. Amit Poonia,
Advocate.

versus

STATE

THROUGH SHO PS SHAHBAD DAIRYRespondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
Inspector Pradeep Kumar
(PS. Shahbad Dairy).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

26.09.2024

%

1. The present application is filed seeking regular bail in FIR No. 412/2018 dated 25.07.2018, registered at Police Station Shahbad Dairy, for offence under Section 363 of the Indian Penal Code, 1860 ('**IPC**').
2. The FIR was registered under Section 363 of the IPC on a complaint given by Fateh Singh alleging that his eldest son Vikas, who was 12 years of age, went missing on 23.07.2018. On 25.07.2018, one dead body was found with injury marks and was identified to be that of the missing boy. It is claimed that one secret information was received that the applicant has murdered the victim with his associate (CCL) to take a revenge from the mother of the victim as she had at some stage complained about the applicant to his father-in-law.
3. It is alleged that the blood-stained clothes of CCL were



recovered which matched with the DNA profile of the victim.

4. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

5. He submits that there is no evidence against the applicant to have committed the crime. At this stage, the only evidence against the applicant is his own disclosure statement which is not admissible in evidence.

6. He submits that as per the case of the prosecution, the blood-stained clothes belong to CCL.

7. The learned Additional Public Prosecutor for the State submits that the recovery of the blood-stained clothes were made at the instance of the applicant and the circumstances clearly establish that the applicant is the one who has committed the crime.

8. The applicant is in custody since 31.07.2018 and material witnesses have already been examined.

9. On being asked, it is pointed out that more than ten witnesses still remain to be examined.

10. The evidence at this stage against the applicant is a disclosure statement.

11. It is the contention of the applicant that motive as alleged by the prosecution has not been established from the testimony of the witnesses.

12. The learned counsel for the applicant stated that the motive sought to be attributed to the applicant is that the mother of the victim had complained to the applicant's father-in-law, and the said father-in-law has not been made as a prosecution witness. The defence and the allegations are subject matter of trial and cannot be presumed at this stage.

13. It is undisputed that the applicant has been in custody for



more than six years and the trial is still likely to take a considerable period of time.

14. The Hon'ble Apex Court in the case of *Union of India v. K.A. Najeeb : AIR 2021 SC 712*, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

15. The continued incarceration of the applicant will result in the denial of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in the near future.

16. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

17. In view of the above, in the opinion of this Court, the applicant has made out a case for grant of bail and is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;



- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

18. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

19. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

20. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

SEPTEMBER 26, 2024

'Aman'