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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3005/2024**
ARPAN MEHTAPetitioner

Through: Mr. Kapil Madan, Mr. Gurmukh Singh
Arora, Mr. Shivek Rai Kapoor,
Advocates.

versus

STATE NCT OF DELHIRespondent
Through: Mr. Hemant Mehla, APP for State
with SI Jatin, PS: Tilak Nagar.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
27.09.2024

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1. This petition has been filed seeking bail in FIR No. 127/2024 registered at PS Tilak Nagar under Sections 279/337/304/201/34 IPC and Sections 3/181/182 of Motor Vehicles Act.
2. As per the case of the prosecution, a PCR call was received on 4th March, 2024 at P.S. Tilak Nagar regarding an accident and when the police team reached the spot, they noticed a *Swift Dezire* car in damaged condition from the rear side and blood was also found near the car. Later, it transpired that the injured complainant, Shiv Shankar Chaurasia had been taken to the hospital.
3. The complainant's statement was recorded, where he stated that he was an Uber driver and on 4th March at about 3.30 a.m., he had picked a passenger



from Terminal 3, IGI airport. At about 4.30 p.m., when he reached Najafgarh Road, his car got punctured and as his passenger got down from the car, one car came from behind and hit him and just after hitting him, the same car hit another unknown person and ran away towards Janakpuri. An MLC was recorded, the deceased was identified and a subsequent MLC of another unknown person was recorded.

4. It later transpired that an unknown black colour car had come in high speed and hit them and drove the car, hit another unknown person and after that the boys ran away towards Janakpuri. Another independent witness, Kaptan Singh was identified, who works as a security guard who was on duty at Krishna cars, Janakpuri and he stated that a black car, HP 0092 (incomplete number), came in high speed and hit 2 persons and then drove his car and hit another unknown person.

5. Subsequently, the car was traced, the car being a *Range Rover*, was borrowed by Vinod Gupta. Further investigation revealed that there were 3 occupants in the car, Rishabh Gupta, the son of Vinod Gupta, Yadu Chauhan and Arpan Mehta, the *petitioner herein*.

6. While, Yadu Chauhan's statement has been recorded, he has not been arrayed as a witness or as an accused.

7. Vinod Gupta had borrowed the car and his son Rishabh Gupta has been granted bail by the Trial Court.

8. The allegation which has been made against the petitioner, is that, that he was driving the car.

9. Counsel for the petitioner, has contended that, admittedly the petitioner was an office boy, working with the office of Vinod Gupta and was present in the car, but a serious doubt has been raised regarding whether he was driving



the car or not.

10. He contends, that the whole investigation has been skewed and contorted in order to somehow put the blame and implicate the petitioner, to save Rishabh Gupta, son of Vinod Gupta, who was the one driving the car and who has been granted bail.

11. For this, he points out to the *tehrir* recorded on 4th March 2024, where statement of Shiv Shankar Chaurasia is recorded, stating that after hitting the passenger of the Uber, the said car went away towards Janakpuri.

12. He states that there was no statement at that stage that the car had stopped and hit another person, the occupants had got out, and then rushed towards Janakpuri. The same aspect is also recorded in the FIR.

13. Subsequently, per the statement recorded under Section 161 C.r.P.C., of Shiv Shankar Chaurasia the story totally changed. He stated that the car which hit them stopped after some time and two boys came out of the driver's door, and one from the back seat, and they were seemingly drunk. They looked at the incident and then they left.

14. He, therefore, contends that this dramatic change in the statement of the witnesses clearly points out to a false implication being imposed on petitioner, who was merely an office boy and was a passenger in the car, to somehow exculpate Rishabh Gupta.

15. He points out to the charge-sheet as well where the statement of Yadu Chauhan is recorded who admits that petitioner was working as an office boy.

16. As per revised status report which has been filed, it is stated by the APP, that petitioner was Vinod Gupta's errand boy, but it is stated now that he used to drive the car and do petty work relating to payments and he has been working with him since 2019.



17. The charge-sheet has already been filed in the matter and the case is at the stage of charge. Notwithstanding, that there were precious lives lost in the incident, this Court cannot be oblivious to the jurisprudence relating to bail and continued custody of an under trial.

18. There is a serious doubt which has been raised on who was driving the car and the petitioner's assertion that he was merely an office boy and could not possibly have been given a *Range Rover* car to be driven by Vinod Gupta or his son, may ultimately have some merit, pursuant to evidence being recorded.

19. The Supreme Court held in ***Manish Sisodia v CBI*** 2023 SCC OnLine SC 1393 that continued custody of an undertrial cannot be taken as a punishment for an offence which will be ultimately proven after trial and the relevant paragraph has been extracted as under:

“29. Detention or jail before being pronounced guilty of an offence should not become punishment without trial...”

(emphasis supplied)

20. This aspect was also recently reiterated by the Supreme Court in ***Javed Gulam Nabi Shaikh v State of Maharashtra & Anr.*** 2024 SCC Online SC 1693, in decision dated 3rd July 2024, where the Supreme Court has usefully traversed the principles of law relating to bail, extracted as under:

“9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law *that bail is not to be withheld as a punishment.*

10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in ***Gudikanti Narasimhulu & Ors. v. Public Prosecutor***, High Court reported in (1978) 1 SCC 240. We



quote:

“What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

*11. The same principle has been reiterated by this Court in **Gurbaksh Singh Sibba v. State of Punjab** reported in (1980) 2 SCC 565 that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.*

...

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be."

(emphasis supplied)

21. The petitioner was an office boy; no apprehension has been raised about influencing witnesses. Rishabh Gupta has already been granted bail who was effectively the one who was in custody of the car given by his father. Yadu Chauhan, the third passenger has not even been arrayed as an accused.



22. In these circumstances, and since he has already been in custody for about 6 months and the charge sheet has already been filed, the Court is of the opinion that petitioner is entitled for bail on the following conditions.

23. 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. 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 will mark presence physically before the concerned I.O. every second and fourth Friday between 4 p.m. – 5:00 p.m.
- 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 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.
24. 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.
25. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
26. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
27. *Dasti.*
28. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 27, 2024/RK/na

Click here to check corrigendum, if any