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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3043/2024**

SAMREEN

.....Applicant
Through: Mr. Shyam Babu, Mr.
Antesh Kumar, Mr. Tarun
Dutt Kaushik, Mr.
Manmay, Mr. Rahul
Matharu, Mr. Piyush Jain,
Mr. Mohit Gulati, Ms.
Astha Singh & Mr. Ishan
Ahuja, Advs.

versus

STATE NCT OF DELHIRespondent
Through: Mr. Ajay Vikram Singh,
APP for the State.
Insp. Jaiprakash Nagar,
PS IP Estate & Insp.
Ganesh Kr., PS Badarpur.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
20.09.2024

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1. The present application is filed seeking regular bail in FIR No.208/2022 dated 13.06.2022, registered at Police Station I.P. Estate, for offences under Sections 302/307/34 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959.
2. The FIR was registered pursuant to a complaint alleging that accused Rajkumar @ Bhola along with his associates had killed the victim, namely, Farman.
3. It is the allegation of the prosecution that the applicant was married to the accused Rajkumar @ Bhola and had instigated him to commit the crime.

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4. The learned counsel for the applicant submits that the allegation against the applicant does not make out any case under Section 302 of the IPC. He submits that the sister of the applicant was married to the deceased and were involved in matrimonial disputes. He submits that the applicant is a lady and is in incarceration since 14.06.2022. He further submits that the chargesheet has already been filed and only two witnesses have been examined, whereas another 58 witnesses still remain to be examined. He submits that the trial in such circumstances is likely to take a considerable period of time.

5. The learned Additional Public Prosecutor ('APP') for the State submits that the call recording between the accused Rajkumar @ Bhola and applicant clearly indicates that the applicant was instigating him to commit the crime.

6. The allegation, at this stage, seems to be that the sister of the applicant was embroiled in matrimonial litigations with the accused. The applicant appears to have instigated the accused Rajkumar @ Bhola to teach the deceased and his family a lesson. The allegation against the applicant is not that she inflicted the injury on the deceased. It is also not the case of the prosecution that the applicant had done any act in furtherance to the conspiracy. The allegation against the applicant is of instigation.

7. Long period of incarceration is an important factor to be kept in mind while considering the application for bail. It cannot be denied that the applicant was arrested on 14.06.2022 and the trial is not likely to conclude in the near future.

8. 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.

9. The continued incarceration of the applicant will result in the denial of her 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.

10. 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.

11. The applicant, being a woman, is also undeniably entitled to special consideration while dealing with the question of bail, in terms of the proviso to Section 437 (1) of the CrPC.

12. In view of the above, without commenting further on the merits of the case, I am of the opinion that the applicant has made out a *prima facie* case for bail.

13. Considering the aforesaid, the applicant is directed to be released on bail (if not in custody in any other case) on furnishing a bail bond for a sum of ₹50,000/- with two sureties of the like amount (one of the sureties shall be the family member of applicant), 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 boundaries of 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 she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

11. 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.

12. 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.

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

AMIT MAHAJAN, J

SEPTEMBER 20, 2024
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