



\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3052/2024**
DHEERAJPetitioner

Through: Mr. Aditya Dhawan, Mr. Sourabh
Duggal, Ms. Kiran Dhawan,
Advocates.

versus

STATE THROUGH STATION HOUSE OFFICERRespondent
Through: Mr. Amit Ahlawat, APP for State with
SI Gaurav Kumar, PS: Paschim Vihar,
East.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
16.10.2024

1. This petition has been filed seeking regular bail in FIR no. 296/2016 under Sections 392/302 IPC registered at PS Paschim Vihar (East). As per the Nominal Roll which is on record.
2. The petitioner has been in custody from 10th July, 2016, and has undergone sentence of about 5 years and 6 months. He has been released on interim bail in 2020 and in 2021 and there is no record that the liberty was misused.
3. There are no previous involvements of the petitioner and the jail conduct has been satisfactory.
4. The case of the prosecution rests on information received on



07.07.2016, that the mother of the caller had been killed and robbery had been taken place at the residence at A Block, Ground Floor, Paschim Vihar Delhi.

5. It was found that the residence of the deceased had been ransacked and cash of Rs. 12 lacs has been looted by the accused persons by strangulating the deceased Krishna Devi with the help of the a *dupatta*. The investigation led to the petitioner who had been former caretaker of the husband of the deceased.

6. As per the case of the prosecution, petitioner in custody confessed that the offence committed by him along with co accused Hansraj, Aman @ Chunnu and Sumit @ Hanga. They had approached the place of incident on 07th July, 2016, in Maruti Ecco Car which belonged to accused Hansraj at about 11:00 A.M. Call detail records belonging to the accused were also found to be located at that residence.

7. Recoveries were made from the petitioner of Rs. 1,58,000/- and it was found that the monies had been returned by him, the same day, to some creditors from which he had taken money.

8. Counsel for petitioner, however, contends that the CCTV footage obtained from outside the house of that time only shows that Aman @ Chunnu and Sumit @ Hanga were entering the house of the deceased, which is also stated in the status report. Further that mere recoveries from the petitioner of monies are not enough to implicate him for the crime of murder.

9. Counsel for petitioner further states that the co-accused Hansraj has been given bail by this Court, by order dated 12th July, 2024.

10. The petitioner has been in custody effectively for period of 8 years except 2 years being on bail during the Covid-19 Pandemic, petitioner was out on interim bail in light of the HPC guidelines and did not misuse the



liberty.

11. As regards the assertion of the APP for State, that the trial is almost complete, it is a matter of record since one of the co-accused was declared PO has now been arrested, the process has to restart again of examination of witnesses.

12. Considering that the trial still will still take time to complete, the petitioner has been in custody since 2016 and has not misused his liberty during the interim bail, has no previous involvements and his jail conduct has been satisfactory and keeping in mind the contentions of the petitioner that there is no direct evidence of his role in the murder of the deceased, aside from the purported recoveries of such an amounts from the petitioner, this Court is of the view that petitioner is entitled to bail.

13. It may be apposite to refer to the decision in **Javed Gulam Nabi Shaikh v. State of Maharashtra And Anr**, CrI.A. 2787/2024 where, in similar circumstances, accused was under trial for 4 years and charges had not yet been framed, the Supreme Court made certain observations which are extracted as under:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.



19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

(emphasis added)

14. 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 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 Thursday 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.

15. 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.

16. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

17. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

18. '*Dasti*'

19. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 16, 2024/RK