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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4289/2023**
KARAN JOLLYPetitioner
Through: Mr. Gaurav Kochar, Advocate

versus

THE STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Laksh Khanna, APP for State
with SI Naresh Kumar Sharma, PS
Shahdara, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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04.11.2024

1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 411/2020 registered under Section 302 IPC at Police Station Shahdara, Delhi.
2. Learned counsel for the applicant states that the applicant is in judicial custody since 27.12.2020 and all the material witnesses already stand examined, who have not supported the case of the prosecution. It is stated that the present case is based on circumstantial evidence as the applicant (who is the grandson of the deceased) is alleged to have entered the house of the deceased on 26.12.2020 between 7:00 to 8:00 PM. It is stated that though the prosecution has cited one *Simran* (PW-7), as a witness of last seen as well as from whom the applicant had borrowed the hammer which was allegedly used in the commission of the offence, the said witness has turned hostile. In her testimony, she has only stated that while at the time of discovery of the dead body, the hammer was found at the spot. Though a suggestion was given to her to the extent that the hammer allegedly used in the commission of the offence was borrowed by the applicant from her, the



same has been denied by her. It is stated that another witness namely Balkar Chand (PW-10) has been examined, who rather stated that on 26.12.2020, when he had returned to his house, he had seen the deceased outside her house at 09:30 PM i.e. after the time the accused was seen exiting the house.

3. The bail application is vehemently opposed by learned APP for the State. While referring to the status report filed before the learned Trial Court, he, on instructions, states that the case is based on circumstantial evidence of last seen nature as well as matching of chance prints recovered from the hammer which was recovered from the applicant. He further submits that besides the evidence of last seen, the prosecution has also relied upon CCTV footage as well as recovery of stolen articles at the instance of the applicant.

4. Having heard learned counsel for the applicant and learned APP for the State and having perused the material placed on record, this Court takes note of the fact that insofar as the applicant's entering the house of the deceased is concerned, though the prosecution has cited one witness namely *Simran* and as well as has relied upon the CCTV footage seized from the spot, the said witness has not supported the case of the prosecution and also has not supported the allegation of the applicant borrowing hammer from her. Insofar as the CCTV footage is concerned, the testimony of *Balkar Chand* is to the effect that he had seen the deceased outside her house after the alleged entry/exit of the applicant from the house of the deceased. The evidentiary value of the aforesaid circumstances would be seen by the learned Trial Court at the time of conclusion of the Trial, however at this stage, noting the aforesaid, this Court is inclined to admit the applicant on regular bail, subject to his 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 JMFC 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.

5. The bail application is disposed of in the above terms.

6. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

7. Copy of the order be uploaded on the website forthwith.

8. Needless to state that this Court has not expressed any opinion on the merits of the case and have 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

NOVEMBER 4, 2024/*rd*