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

+ **BAIL APPLN. 4302/2023**

**PRADEEP KUMAR**

..... Petitioner

Through: Mr. Dhruv Diwedi and Mr. Bonny Mehra, Advocates.

versus

**STATE OF DELHI (N.C.T)**

..... Respondent

Through: Mr. Laksh Khanna, APP for State with SI Vijay Kumar PS Jaitpur, Delhi.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

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**02.02.2024**

1. By way of present bail application filed under Section 439 read with Section 482 Cr.P.C., the applicant seeks regular bail in FIR No. 266/2017 registered under Sections 302/34 at Police Station Jaitpur, Delhi.
2. Learned counsel for the applicant contends that the petitioner is in custody since 03.05.2017 except for the period when he was released on interim bail. On merits, it is stated that the present case came to be registered at the instance of Nirasha Ali. As per the complaint, the deceased had an altercation with one Jeete @ Jitender. It is alleged that during altercation Jeete had called two of his friends who reached the spot. The applicant was one of them. The role assigned to the present applicant is of giving fist and kick blows to the deceased whereas the fatal injuries on the head of the deceased were caused by co-accused Jeete and Anil. He submits that although in the FIR it was stated that Jeete had exhorted Anil to take out the pistol however, no such weapon was used or recovered. He further states



that prosecution has cited three witnesses namely Nirasha, Umesh and Ziarul. While Umesh has turned hostile, Nirasha Ali in his cross examination did not ascribe any role to the present applicant. The third witness Ziarul has not been appearing after his initial examination before the Trial Court.

3. The bail is vehemently opposed by the learned APP for the State. It is stated that the applicant is one of the four accused who have caused injuries to the deceased. The presence of the applicant has been established through CDR details placed alongwith chargesheet and also through the motorcycle recovered from the spot which belonged to the applicant. The testimony of PW-5 also corroborates the presence of the applicant and his role.

4. The post-mortem report is on record as per which cause of death has been opined as cranio-cerebral damage as a result of ante mortem injury sustained to head produced by blunt force impact. As per the prosecution case, the fatal injury was caused by Jeete and Anil. The role assigned to the applicant is of fist and kick blows. It is noted that the applicant is in custody for more than 4 years. He is not involved in any other case. He remained on interim bail however he did not misuse the same.

5. Considering the totality of the facts and circumstances, it is directed that the applicant be released on regular bail subject to her furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Trial Court/ Jail Superintendent/concerned Court/Duty M.M. 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 will remain available on his Mobile Numbers 9811448970 and 7011758451 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.
6. The bail application is disposed of in the above terms.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that 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**

**FEBRUARY 2, 2024/rd**