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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3102/2024**

JOGRAJ

.....Applicant

Through: Mr. Varun Sakhuja,
Mr. Ranjan Mishra &
Ms. Aliza Zeeshan,
Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State with
Insp. Sanjeev Kumar, PS
Adarsh Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
22.10.2024

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CRL.M.A. 26010/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The present petition is filed seeking regular bail in FIR No. 364/2019 dated 26.10.2019, registered at Police Station Adarsh Nagar, for offence under Section 302 of the Indian Penal Code, 1860 ('IPC').
4. The brief facts of the case are that a PCR call was received on 26.10.2019 informing that the caller has killed his wife. After some efforts, the place of occurrence, that is, a jhuggi, was traced. The ground floor was locked, however, it was seen through the grill that the household articles were scattered on the floor. The lock was broken and the dead body of a female was found. The body was identified as Sangeeta, that is, the wife of the applicant. Several injury marks were found on the body.

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5. No eyewitnesses were found. The applicant was also not found on the spot. Blood stains and broken parts of bangles were found on the floor. During investigation, the applicant was apprehended from Bawana, Delhi.
6. It is alleged that the applicant disclosed that the victim had an illicit relation with one Rattan Lal. It is alleged that on the intervening night of 25/26.10.2019, the applicant assaulted the victim with a *belan* (rolling pin) and plastic pipe. It is alleged that the applicant also smashed the victim's head on the wall due to which she lost her life.
7. It is alleged that the applicant disclosed that he had thrown the SIM card which he had used to make the PCR call. It is alleged that the applicant led the investigating team through his house and the water plastic pipe and *belan* that were used in the commission of the offence were recovered at his instance.
8. The learned counsel for the applicant submits that the applicant has clean antecedents and he has been falsely implicated in the present case.
9. He submits that the injuries sustained by the victim as per the post mortem report are not compatible with the alleged objects used in commission of the alleged assault.
10. He submits that the accused Devanti and Ankit have motive to depose against the applicant as they were in illegal possession of the jhuggi and a legal notice for eviction has been served upon them.
11. He submits that the minor child 'A' and Preeti (PW6, who used to live on the first floor of the property) have not supported the case of the prosecution.
12. He submits that the GD entry of the PCR call suggests that the caller was a female.



13. He submits that the applicant has been in custody since 27.10.2019 and the trial will likely take long to conclude. He submits that no purpose will be served by subjecting the applicant to undergo further incarceration.

14. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the crime alleged against the applicant is heinous in nature.

15. He submits that the witnesses– Ankit (brother of the applicant), Dev Vanti (wife of Ankit) and Preeti (sister of the applicant), have stated that there was a quarrel between the applicant and the victim on 25.10.2019 due to the extra-marital affair of the victim.

16. He submits that the recording of the PCR call informing about the death of the victim has been sent to FSL for analysis and report.

17. He submits that certain bus tickets and blood- stained shirt of the applicant was also recovered from the applicant. He submits that as per the FSL report, the DNA profile from the shirt of the applicant matched the DNA of the victim.

18. I have heard the counsel and perused the record.

19. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, the long period of incarceration is also a relevant factor that is to be



considered.

20. The allegations in the present case are grave and heinous in nature. It is the prosecution's case that the applicant brutally murdered his wife as he suspected that the victim was having an affair with one Rattan Lal.

21. The applicant has denied the story of the prosecution and argued that the witness Preeti and 'A' have not supported the case of the prosecution that there was any quarrel between the applicant and his wife. On the other hand, the learned APP has pointed out that witnesses Ankit and Dev Vanti have supported the case of the prosecution in regard to the quarrel between the applicant and his wife on the preceding night of the incident.

22. It is relevant to note that the son of the applicant has deposed that his parents never quarreled in his presence and it is wrong to suggest that the applicant had any doubt that the victim used to meet Rattan Lal in his absence.

23. Admittedly, there is no eye witness in the present case. It is settled law that when the case is based solely on circumstantial evidence, the chain of circumstances has to be so complete that it leaves no reasonable ground for any other conclusion except for the hypothesis of guilt of the accused person. In the present case, as noted above, some of the public witnesses have gone hostile and deposed that there were no quarrels between the applicant and the victim. The motive of the applicant to commit the crime thus would be tested after the entire evidence is led.

24. While the probative value of the evidence and veracity of the evidence of the witnesses would be considered at the time of final argument, it is settled law that in the event of there being even some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to bail [Ref: **Ram**



Govind Upadhyay v. Sudarshan Singh : (2002) 3 SCC 598].

25. Insofar as the recoveries are concerned, it is argued that the same are not compatible with the injuries suffered by the victim. The same would be seen during the course of the trial.

26. The FSL regarding the PCR caller is also still pending.

27. The investigation in the present case already stands concluded. The applicant was arrested on 27.10.2019 and as per the nominal roll, the applicant has spent more than 4 years in custody. The trial is at the stage of examination of prosecution witnesses. It is stated that only 14 out of the 36 witnesses have been examined till now. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time. In the opinion of this Court, no purpose would be served by keeping the applicant in further custody.

28. 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.

29. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeer*** : AIR 2021 SC 712 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.

30. Considering the aforesaid discussion, in the interest of upholding the principles enshrined under Article 21 of the Constitution of India, this Court is of the opinion that the applicant has established a prima facie case for the grant of bail.

31. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond in the sum of

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₹10,000/- with two sureties of the like amount, subject to the satisfaction of the 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 circumstances, leave the boundaries of the country without informing the concerned IO/SHO;
- c. The applicant shall provide the address of where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
- d. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep it at switched on mode at all times;
- e. The applicant shall appear before the concerned Court as and when the matter is taken up for hearing.

32. 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.

33. It is clarified that observations made in the present case are only for the purpose of considering the 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.

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

AMIT MAHAJAN, J

OCTOBER 22, 2024

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