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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3124/2024**

RAHUL MANOCHA

.....Applicant

Through: Mr. Bharat Dubey, Dr.
Sonia Dubey, Ms.
Shubhlaxmi Dubey, Ms.
Taniya Kapoor & Ms.
Ayesha Sharif, Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
Insp. Sandeep Kumar, PS
Timarpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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12.09.2024

CRL.M.A. 26167/2024 (exemption from filing the certified copies of FIR and chargesheet which are forming part as annexures of the bail application).

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

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3. The present application is filed seeking regular bail in FIR No.301/2022 dated 14.08.2022, registered at Police Station Timarpur, for offences under Sections 304/34 of the Indian Penal Code, 1860 ('IPC'). Chargesheet was filed against the applicant for the offences under Sections 147/148/149/302/34 of the IPC.
4. The allegation of the prosecution is that the injured victim, while on the way to the hospital, had alleged that the applicant and accused persons – Mukesh and Ajay along with their

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associates had beaten him. The accused persons surrendered before police and disclosed the involvement of other accused persons, including, Nitin *alias* Tillu and Sanjay *alias* Jadu.

5. The alleged eyewitness of the incident, namely, Babita had also given a statement that the applicant along with the other accused persons had given beating to the victim. It is pointed out that the eyewitness Babita has already deposed before the learned Trial Court and has not identified the applicant as one of the assailants.

6. Three of the co-accused persons, namely, Nitin *alias* Tillu, Ajay Gupta and Sanjay *alias* Jadu, who have been attributed a similar role by the prosecution, have already been granted bail by this Court by orders dated 10.03.2023, 10.07.2024 and 15.07.2024 respectively.

7. Even though it is alleged that the applicant was seen giving blows with his hand and elbow to the deceased in one of the videos which allegedly went viral after the incident, it cannot be denied that the allegation of the prosecution has been that all the accused persons gave severe beatings to the deceased which led to his death.

8. As noted above, the sole eyewitness has admittedly not supported the case of the prosecution and has not identified the applicant as one of the assailants. It is settled law that the statement of a witness is only a piece of evidence, and for the purpose of conviction, the corroborated part of the evidence of a hostile witness regarding the commission of the offence is to be treated as admissible [Ref. ***Mrinal Das v. State of Tripura : (2011) 9 SCC 479***]. The Trial Court while deciding the case has to consider the entire material on record, and can definitely look



into the circumstances and other evidence put forth by the prosecution while passing the judgment.

9. However, the benefit of the same, at this stage, cannot be denied to the applicant while considering the application for bail, especially when similarly placed accused persons have been granted bail.

10. The applicant is stated to be the sole bread earner in his family. It is stated that he has a wife and a minor child to take care of.

11. The applicant is in custody since 15.08.2022. Admittedly, the material witnesses have been examined. No purpose would be served by keeping the applicant in further custody.

12. In the opinion of this Court, the applicant has thus made out a case for grant of bail on the ground of parity.

13. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with one surety of the like amount, 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 he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
14. 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.
15. It is clarified that the observations made in the present order are only 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.
16. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

SEPTEMBER 12, 2024
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