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

+ BAIL APPLN. 98/2024
DHARMENDER

..... Applicant

Through: Mr. Anuj Jain & Mr. Jai
Gaba, Advs.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. Utkarsh, APP for the
State with SI Kamal
Chaudhary, PS Prem
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

22.02.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No. 275/2022 dated 18.03.2022, for offence under Section 307 of the Indian Penal Code, 1860 ('CrPC'), registered at Police Station Prem Nagar.
2. On 18.03.2022, a PCR call was received from the victim's wife informing that the victim had been stabbed and that he had been taken to Sanjay Gandhi Hospital. It is stated that since the victim was not fit to give a statement, the present FIR was registered on the basis of the said PCR call by the complainant.
3. It is the prosecution's case that the applicant had stabbed the victim due to a quarrel that took place when the victim was celebrating Holi outside his house.
4. The applicant was arrested on 20.03.2022, and has remained in custody since then.
5. It is alleged that the weapon used in the commission of the



offence, that is, a knife, was recovered at the instance of the applicant on 21.03.2022.

6. The victim in his statement under Section 161 of the CrPC has stated that the applicant, who is his neighbour and old friend, had come to ask him for money on the occasion of Holi. He has stated that the applicant started quarrelling and scuffling with him when he refused to give money. He has also stated that the applicant was drunk at the time, and during a scuffle, stabbed him in the stomach.

7. The victim's mother and wife, in their statements under Section 161 of the CrPC, have also stated that the applicant, who was drunk at the time of the incident, stabbed the victim in the stomach after a fight.

8. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and has clean antecedents.

9. He further submits that the investigation in respect to the applicant is complete and charge sheet has already been filed in the present case.

10. He submits that the weapon of offence was planted to implicate the applicant. He further submits that the wife and mother of the applicant are both interested witnesses.

11. He draws the attention of the Court to the relevant General Diary entry, that is General Diary No.6A dated 18.03.2022, which led to the lodging of the present FIR. He submits that the wife of the victim did not name the applicant in the PCR call whereby her statement under Section 161 of the CrPC is thus unreliable.

12. He further submits that the victim and his mother have also contradicted the case of the prosecution in their statements before



the learned Trial Court.

13. The learned Additional Public Prosecutor for the State opposes the grant of any relief to the applicant. He submits that the offence alleged to have been committed by the applicant is heinous in nature.

14. He submits that the nature of the injury, as per the MLC of the victim, has also been opined to be of grievous nature.

15. He submits that the FSL report states that the DNA profile generated from the stained gauze cloth of the victim was found to be similar to the DNA profile found on the recovered knife.

16. It is relevant to note that the evidence of the victim and his mother was recorded by the learned Trial Court on 03.07.2023.

17. In his statement before the learned Trial Court, the victim has categorically stated that he and his family were celebrating Holi outside his home when some persons came and started scuffling with him. He has stated that he was stabbed by one of the said persons pursuant to the scuffle, however, he couldn't see their faces due to it being a 'dark night'. The victim's mother in her statement has seconded the version of the victim.

18. It is thus apparent that the victim and his mother have turned hostile. 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.

19. However, this Court while considering the application of



Bail cannot lose sight of the fact that the present case relates to the injury of the victim. From the statements of the victim and his mother, as discussed, the very foundation of the allegations, at this stage, becomes doubtful.

20. It is also not denied that the applicant has no antecedents and is in custody since 20.03.2022.

21. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. He 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. He shall under no circumstance contact the victim and the victim's family members;
- c. He shall under no circumstance leave the boundaries of the National Capital Region without the permission of the Trial Court;
- d. He shall appear before the learned Trial Court as and when directed;
- e. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. He shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

22. 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 way of filing an application seeking cancellation of bail.

23. It is clarified that any observations made in the present order are 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.

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

AMIT MAHAJAN, J

FEBRUARY 22, 2024

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