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

+ **BAIL APPLN. 3252/2024, CRL.M.(BAIL) 1503/2024**

JATIN KISHOR @ JATIN KUMAR

.....Petitioner

Through: Mr. Prashant Diwan, Mr. Antriksh,
Mr. Dhruv Kapur, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with Mr. N. Valsan, DCP, Outer
North, Mr. Rishi Kumar, ACP, SPB,
Insp. Gyanchand Mehra, Insp. P.
Singh, SHO, DIU, Insp. Sanjay, DIU,
North and SI Sachin, PS S.P. Badli.
Mr. Manoj Singh, Adv. with
complainant.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

23.12.2024

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1. The present bail application has been filed under Section 483 BNSS seeking the release of applicant / Accused Jatin Kishor @ Jatin Kumar on regular bail in case FIR No. 4800/2023 under Section 304/34 IPC registered at PS Samaypur Badli, Delhi.
2. As per the status report dated 20.12.2024 filed by the state, the brief facts are as under:

“2. That the brief facts of the case/incident are as on 22/05/2023 at about 06:45 PM a piece of information was received in PS SamaypurBadli that "caller kebaan ka



patiuskegharaakar maar pit karrahahai need police". After receiving per call, police staff reached at the place of occurrence i.e. House no. 502, Jatav Moholla, SamaypurBadli Village, Delhi and on the spot one person namely Arun Kumar s/o Sushil Kumar was found unconscious. Meanwhile, father (Sushil Kumar), mother (Ranjana) and brother (Varun Kumar) of injured Arun Kumar were also reached at the place of occurrence.

3. After it injured Arun Kumar s/o Sushil r/o House No. 213, Shakti Nagar, Bahadurgarh, Haryana, age-37 years was shifted to BSA Hospital where he was declared brought dead vide MLC No. 7003 dt. 22/05/23.

4. Hence, the present case was registered on the statement of deceased's father Sh. Sushil Kumar wherein he mentioned that his son Arun Kumar was married with Anju @ Renu D/o Rajender R/o Village Badli, Delhi on 09/03/23. On 22/05/23 his son's father in law Rajender Singh was admitted in RML Hospital and Arun Kumar went for the help of father-in-law who was ill. At about 05.30 PM he received a call from deceased Arun Kumar that he was surrounded by in-laws in their house in Badli, Delhi. Thereafter the mobile phone of Arun got switched off. They reached at Badli Village and found his son Arun Kumar in unconscious condition at first Floor of the house of his in-laws. He was taken to BSA Hospital, Rohini by the PCR van where he was declared dead. After it place of occurrence was photographed and inspected by crime team and they provide two button which was found at place of occurrence and same was taken into police possession.

5. That the next day, the post mortem of the deceased Arun was conducted at BSA Hospital, Rohini vide PM No. 361/2023 and after Post mortem exhibits were taken into police possession. During further investigation PM report of the deceased was received wherein doctor mentioned that, "Death was due to combined effect of cerebral damage and hemorrhagic shock consequent to multiple injuries to the



body. All injuries were ante-mortem in nature, fresh before death and caused by blunt force. However, VISCERA has been preserved to ascertain any intoxication at the time of death."

6. During the course of Investigation, on 23/05/2023 accused namely Jatin Kishor @Jatin Kumar S/o Rajender, Mukesh Kumar S/o Ram Sharan, Pardeep Grover S/o Ved Prakash Grover, Kamal Kishor @ Kamal Kumar S/o Rajender Kumar were arrested and accused disclosed that they had beaten Arun with plastic pipe, kicks and punches. During investigation mobile phone, driving license and torn shirt of the deceased and weapon of offence (Plastic pipe) were recovered on the instance of accused Kamal Kumar S/o Rajender Kumar R/o H.No. 502, Jatav Mohalla Badli village, Delhi. Anju @ Renu was also arrested in this case."

3. Learned counsel for the petitioner submits that there is no witness in the present case cited by the prosecution who could attribute any role to the present petitioner. Learned counsel submits that co-accused Pradeep Grover and Mukesh Kumar have already been admitted to bail. Learned counsel further submits that the button of the shirt of the deceased was not recovered at the instance of the petitioner. It has further been submitted that the petitioner has been in custody for the last more than one year. The trial may take a long time and therefore the petitioner may be admitted to bail.
4. Learned APP for the State has vehemently opposed the bail application and submits that first of all the petitioner cannot claim the bail on the ground of parity as the role of the present petitioner is different from Pradeep Grover and Mukesh Kumar. Learned APP submits that Pradeep Grover was only a mediator whereas Mukesh Kumar was husband of the wife's sister of the deceased. Learned APP submits that



even as per the disclosure of accused Kamal Kishor, Mukesh was trying to pacify. Learned APP submits that the petitioner is not entitled to be admitted to bail as if he is released on bail the prosecution witnesses may be tempered.

5. The parameter for the grant of bail in serious cases is well established. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly, where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors before granting bail; they are: (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence. (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. (c) Prima facie satisfaction of the court in support of the charge. Reliance is placed upon *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528.
6. In *Ash Mohammad v. Shiv Raj Singh*, (2012) 9 SCC 446, the apex court inter-alia emphasized that while the duration of custody is an important consideration, it must be evaluated alongside other factors including the overall circumstances and any prior criminal history. The Court stressed that these elements need to be balanced against both society's collective interests and individual rights, highlighting the need to consider public welfare alongside personal freedom.
7. It is also a settled proposition that the detention during the course of the



trial cannot be treated as a punitive detention. The Court at this stage has to see the prima facie case. The Court cannot meticulously examine or appreciate the facts at this stage so as to not cause prejudice to either of the parties.

8. As far as parity is concerned which has been claimed by the petitioner, it is a settled proposition that in serious cases like this the parity cannot be claimed as a matter of right. Reliance can be placed upon ***Tarun Kumar vs. Vs. Assistant Director, Directorate of Enforcement SLP (Crl.) No. 9431 of 2023.***
9. In the present case, the deceased was found lying unconscious in the in-law's house. The petitioner is the brother of the sister of the deceased. The motive as being alleged by the prosecution is that the deceased was sharing some confidential information about his wife, i.e., the petitioner's sister with her female friends. It has also been found in the status report that further investigation is also in progress. It cannot be denied that the dead body was found in the house belonging to the present petitioner and it proposes an explanation from the petitioner for the reasons leading to the death of the deceased Arun.
10. I consider that the present petitioner is not entitled to bail. Hence, in the facts and circumstances, the present bail application is dismissed.

DINESH KUMAR SHARMA, J

DECEMBER 23, 2024/AR/HT..