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

+ **BAIL APPLN. 3422/2024**

SACHIN

.....Petitioner

Through: Mr. Ravinder Kumar & Mr. Santosh
Dixit, Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Amit Ahlawat APP with Daljeet
Singh Advocate
Insp. Abhijeet PS Geeta Colony & IO
Insp. Shasi Kant PS New Delhi
District.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
11.11.2024

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1. This petition has been filed seeking bail in FIR No.631/2023 under Sections 365/302/34 I.P.C. registered at P.S. Geeta Colony; petitioner was arrested on 31st October 2023. As per the nominal roll, he has been in custody for about 1 year; has no previous involvements and his jail conduct is satisfactory.

2. As per the case of prosecution, on 29th October 23, basis an information received and recorded *vide* DD No. 71A, at PS Geeta Colony, that an injured person was lying on the road side near Block no.5, Geeta Colony. Police team reached the spot and found a man aged about 24 years lying on the road with multiple stab injuries. He was shifted to SDN hospital, where he was declared 'brought dead'. The crime team examined the scene of crime.



3. A PCR call was received from one Joginder who identified the deceased as his nephew Ravikant, who he stated was kidnapped by some boys on a scooty. Accordingly, an FIR was registered. On the next day, basis another information, a blood-stained knife was recovered from the spot and was received in PS Geeta Colony *vide* DD No. 39A.

4. Statement of Joginder was recorded, which as per the prosecution, is the last seen evidence. It is stated that on 29th October 2023, at about 7:45 pm, when he was standing near Gali No.5, one CCL 'A' residing near the house of his nephew had come along with his friends Yash and another unknown boy and they took Ravikant along with them on two scootys.

5. CCTV footage has been produced as per which at 19:43:50 hours, Yash and CCL A along with Rehan are seen accompanying deceased Ravikant. Yet another CCTV footage from Block No.12 is produced which purportedly identifies Sachin, petitioner herein, in the said footage.

6. Counsel for petitioner states that these two different CCTV footages have no connection with each other since these locations are about 500 m apart. For this, she relies on cross examination of father of deceased PW-02, who confirms that distance is about 500 m. Counsel for petitioner points out that only petitioner was arrested along with other three accused persons whereas petitioner has no role in the said crime.

7. APP also states that petitioner was arrested since he was absconding along with other three accused, however, statement of Joginder does not relate to petitioner.

8. Joginder lives in Dubai and has therefore, not been examined so far and proceedings have been adjourned from time to time on this behalf and matter is now fixed before the Trial Court for recording of his testimony in January 2025.



9. Petitioner/Sachin has been implicated solely on basis of disclosure of CCL A and apart from that, there is no evidence which has been placed on record, as contended by counsel for petitioner.

10. Considering these circumstances, this Court is of the opinion that petitioner cannot be incarcerated indefinitely. Even as per the case of prosecution, Joginder had not seen petitioner, as also no TIP was conducted *qua* the petitioner.

11. The Hon'ble Supreme Court in ***Satender Kumar Antil v. CBI***, (2022) 10 SCC 51, observed as follows:

“12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India...”

(emphasis added)

12. The Hon'ble Supreme Court also noted the observations made by Krishna Iyer, J., in ***Gudikanti Narasimhulu v. Public Prosecutor***, (1978) 1 SCC 240, as under:

“1. ... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of “procedure established by law.” The last four words of Article 21 are the life of that human right.”

(emphasis added)

13. The Hon'ble Supreme Court further made note of their observations in ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40, as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object



of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

(emphasis added)

14.

15. The Hon’ble Supreme Court in **Javed Gulam Nabi Shaikh v. State of Maharashtra**, 2024 SCC OnLine SC 1693, observed as follows:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime



committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

16. Accordingly, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- iv. Petitioner shall join investigation as and when called by the IO concerned.
- v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Petitioner will mark presence physically before the concerned I.O. every first and third Thursday of every month at 4 p.m. and will be not kept waiting for more than an hour.
- vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.



17. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

18. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

19. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

20. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 11, 2024