



\$~7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3519/2024**
YUSUFPetitioner

Through: Mr. Mutiur Rehman, Mr. Md.
Nadeem Khan, Ms. Shaheen,
Ms. M Khanam, Mr.Md.
Danish, and Mr. Arshi, Advs.

versus

STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Amit Ahlawat, APP for
State
With Ms. Shehnaz Khan, Adv.
Insp. Prabhanshu, SHO PS
Shastri Park Metro.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
25.10.2024

%

1. This petition has been filed seeking regular bail in FIR No.8/2022 PS Shastri Park Metro under Section 302/34 IPC. Case of prosecution rests on a call received on 27th November 2019 regarding a dead body lying near wine shop Metro Mall, Seelampur. No clue was found regarding identity of the deceased despite conducting local enquiry. Inquest proceedings were done under Section 174 Cr.P.C.; all formalities were complied to establish identity of the unknown dead body.
2. On the intervening night of 27th and 28th November 2019, deceased was identified as Firoz, aged about 24 years by his father



Yusuf, the complainant.

3. Viscera, blood samples and clothes of deceased were preserved by the Autopsy Surgeon. Initially no case was registered. Complaint then proceeded to file complaint under Section 156(3) Cr.P.C.; on 29th January 2022 ordered to register a case under appropriate sections and investigation was carried out.

4. As per the post mortem report, cause of death was haemorrhagic shock as result of *ante mortem* injury to pelvic and associated blood vessels produced by blunt force impact.

5. As per the *post-mortem* report, injuries nos. 1.2 and 3 were abrasions present on the right side of the body while injury no.4 was an abrasion present on right side of abdomen. *Post-mortem* report further stated that injury nos. 1, 2 and 3 were 2 to 3 days old and injury no.4 is 5 to 7 days old. Injury to the pelvis and associated blood vessels was possible from fall. Viscera of deceased seemed to contain Ethyl Alcohol 28.9mg/100ml of blood. The status report notes that deceased was an alcoholic and was getting treatment from '*Nasha Mukti Kendra*'.

6. The accused was implicated on basis of CDR analysis noting that petitioner was with the deceased at house of deceased earlier. Thereafter, the location was found at house of Yusuf at 1920 hours.

7. Counsel for petitioner states that petitioner knew the deceased and his wife *Gulfasha* and since deceased was inebriated, his mother had asked petitioner to drop him at Seelampur Metro Station and he had merely called him to drop him there and left him there. He has been unnecessarily implicated in this matter and there is no evidence including CCTV footage or weapon of offence. Further the CDR



location chart certainly shows that petitioner was with deceased at 7⁰ clock as he had gone to drop him at Metro Station. On this basis it is contended that the reason for the death of the deceased could be any other reason and certainly not him, who merely went to drop him at the Metro Station.

8. A perusal of record would show petitioner has been in custody for about 2 years 2 months; has no previous involvement and his jail conduct is satisfactory, on this basis as also in light of averments of counsel for petitioner regarding lack of evidence, this Court is inclined to grant bail to petitioner on the following conditions.

9. 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 Tuesday 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.

10. 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.

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

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

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

ANISH DAYAL, J

OCTOBER 25, 2024/sm