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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **BAIL APPLN. 3595/2024**

SUDHIR

.....Applicant

Through: Mr. Rishipal Singh,
Ms. Radha Rani & Mr.
Dinesh Kumar, Advs.

versus

THE STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Utkarsh, APP for the
State
Inspector Rohit Gahalot,
PS- Prem Nagar

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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03.12.2024

CRL.M.A. 30049/2024 (for exemption)

1. Exemptions 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. 432/2019 dated 16.08.2019 registered at Police Station Prem Nagar for offences under Sections 302/34 of the Indian Penal Code, 1860.

4. The FIR was registered on a complaint made by the mother of the deceased alleging that the accused persons had an altercation with the victim pursuant to which the victim was inflicted with a knife blow which led to his death.

5. It is alleged that the accused persons were sitting in front of the house of the victim and were consuming alcohol and, on being asked to stop, they fought with the victim which led to the altercation. Three accused persons were involved in the

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incident, two of them caught hold of the victim and the applicant allegedly inflicted the knife blow. All the accused persons were arrested on 16.08.2019.

6. This Court, by order dated 25.10.2024 in BAIL APPLN. Nos. 2675/2024 and 3574/2024 admitted the co-accused persons on bail.

7. The learned Additional Public Prosecutor for the State submits that the accused who were admitted on bail were not alleged to have inflicted the knife blow on the victim. He submits that the applicant was the one who had caused the fatal injury. He further submits that the applicant had been involved in various other crimes on earlier occasions and his antecedents do not entitle him of any relief.

8. The Hon'ble Apex Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

9. This Court, while admitting the co-accused persons on bail, noted that a single knife injury was allegedly inflicted on the thigh of the victim. It was noted that the death was caused due to the solitary injury caused by a knife.

10. This Court also took note of the fact that, undisputedly, the accused persons did not know the victim and quarrel happened on the spur of a moment when the victim tried to stop the accused persons while they were consuming alcohol in front of his house.



11. The injury was caused on the thigh which is a non-vital part of the body and, therefore, whether the accused persons had intention to cause a particular injury that would have been sufficient in the ordinary course of nature to cause death would be decided after the evidence is led.

12. It is trite that long period of incarceration is an important factor to be kept in mind while considering the application for bail. The applicant is in custody since 16.08.2019 and has spent almost five years in custody. The trial is also likely to take a considerable period of time since almost ten witnesses still remain to be examined.

13. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeer*** : AIR 2021 SC 712, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

14. It is settled law that the object of jail is to secure the appearance of the accused during the trial and it is neither punitive nor preventive. The deprivation of liberty for long period of time itself is considered as a punishment without the trial having concluded.

15. As far as the antecedents of the applicant are concerned, concededly, all the FIRs were registered long back and much prior to the applicant being taken into custody in the present case. Even otherwise, the applicant being involved in other cases cannot be the sole ground for rejecting the application seeking bail. [Ref: ***Prabhakar Tiwari v. State of Uttar Pradesh*** : (2020) 11 SCC 648].

16. The applicant was also released on interim bail on few occasions and has not misused the liberty.



17. In view of the above, the applicant has made out a *prima facie* case for grant of bail.

18. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two local sureties 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 appear before the learned Trial Court as and when directed;
- c. The applicant shall, after his release, appear before the concerned Investigating Officer once in every month;
- d. The applicant shall provide the address where he would be residing after his release to the concerned IO/SHO 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.

19. 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.

20. 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.



21. The bail application allowed in the aforementioned terms.

AMIT MAHAJAN, J

DECEMBER 3, 2024
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