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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3685/2024**
DILKASH @NADEEMPetitioner
Through: Mr. Shekhar Nanawati, Advocate

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Laksh Khanna, APP for State
with Inspector Prem Kumar PS Neb
Sarai, Delhi.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
13.11.2024

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1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 359/2018 registered under Sections 302/307/120B/34 IPC and 25/27/54/59 of Arms act at Police Station Neb Sarai, Delhi.
2. Learned counsel for the applicant submits that the incident statedly occurred on 07.08.2018 and the applicant came to be apprehended on 10.08.2018 and since then he is in continuous custody. It is stated that seven other co-accused persons have already been released on regular bail. On merits, it is stated that as per the prosecution case, the FIR came to be registered in respect of an incident dated 07.08.2018 on the statement of one *Taufiq*, who stated that on the said date, his brother-in-law namely *Sabir @ Bada Abid* was inflicted with gunshots and knife injuries and he succumbed to those injuries. It is further stated that the prosecution has cited four witnesses and none of them have identified or attributed any role to the present applicant. It is also stated that two more witnesses namely *Seema*



and *Ikramuddin* though ascribed the role of infliction of knife injuries to the present applicant, however, the same was an improvement to their previous statements recorded under Section 161 Cr.PC where no such role of the applicant was mentioned. Even otherwise they are stated to be related to the deceased and are interested witnesses. Lastly, it is submitted by learned counsel for the applicant that the prosecution has cited a total of 55 witnesses out of which 40 have been examined and the co-accused who had been ascribed the role of causing gunshot injuries has already been released on regular bail by this Court vide order dated 10.04.2024 passed in Bail Appln. 295/2024.

3. The bail application is vehemently opposed by learned APP for the State who submits that on the date of the said incident, the deceased received multiple stab wounds as well as gunshot injuries and as per the prosecution case, the stab wounds were inflicted by the present applicant. It is further submitted that as per the post-mortem opinion, the death has occurred on account of the gunshot injuries as well as on account of stab wounds that were inflicted upon the deceased on vital parts of the body and that the injuries were opined to be individually sufficient enough to cause death. It is also stated that as per the nominal roll, the applicant is involved in two other cases being FIR No.41/2018 registered under Sections 308/34 IPC at P.S. Neb Sarai, Delhi and FIR No.276/2018 registered under Sections 325/341/34 IPC at P.S. Ambedkar Nagar, Delhi. Lastly, learned APP for the State, while contesting the submissions on parity, submits that the present applicant is seen in the CCTV footage.

4. At this stage, learned counsel for the applicant submits that in the aforementioned cases, the applicant is already admitted on regular bail. With



respect to the CCTV footage, it is submitted that the prosecution has examined one *Mukesh* as PW-20 who has stated that the contents of Section 65-B Certificate of the Indian Evidence Act were not prepared by him and he signed it only at the instance of the police. He also did not specifically identify the DVR.

5. I have heard learned counsel for the parties and perused the record.

6. Concededly, the four eye witnesses cited by the prosecution neither identified nor ascribed any role to the present applicant. The other two eye witnesses, who are related to the deceased and are interested witnesses, have made material improvements in their earlier statements recorded under Section 161 Cr.PC.

7. This Court, while granting bail to co-accused *Badshah @ Shaukeen*, noted the submissions on behalf of the State that both the said witnesses were inside while the incident occurred outside their house. Their testimony would be evaluated by the learned Trial Court at the conclusion of the trial. The only other material alleged against the applicant is the CCTV footage, to which statement of *Mukesh* has been read over and handed over in Court.

8. Considering the totality of the facts and circumstances, the period of custody and the fact that the eye witnesses cited by the prosecution are either not supporting its case or making considerable improvements in their earlier statements, this Court is inclined to admit the applicant on regular bail and it is directed that the applicant be released on regular bail subject to him furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Trial Court/Duty JMFC and subject to the following further conditions :-



- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
 - ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
9. The bail application is disposed of in the above terms.
10. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
11. Copy of the order be uploaded on the website forthwith.
12. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

MANOJ KUMAR OHRI, J

NOVEMBER 13, 2024/rd