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

+ **CRL.M.C. 8178/2024**

STATE

.....Petitioner

Through: Mr. Manoj Pant, APP for
the State
Inspector Suraj Pal, PS-
Bharat Nagar

versus

YASHPAL & ANR.

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

05.12.2024

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CRL.M.A. 31278/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The prosecution challenges the order dated 10.12.2021, whereby the respondents were admitted on regular bail in FIR No. 53/2021, registered at Police Station Bharat Nagar.
4. The brief facts of the case are that the FIR was registered on a complaint made by the brother of the victim. It is stated that on 25.01.2021, when the victim went for a walk after dinner, the complainant followed him. It is alleged that when the victim reached near H Block Road, Budh Mandir, near building material shop, 5-6 boys were standing there. Upon seeing the victim, the said persons started abusing him and beating him. It is alleged that one of the accused persons stabbed the victim multiple times on neck and chest while the other accused persons caught hold of him. The victim, thereafter, succumbed to his injuries.



5. It is the case of the prosecution that the respondents were one of the boys who had beaten the victim and were holding the victim while the other accused person stabbed him.
6. The respondents were arrested on 27.01.2021.
7. The learned Trial Court noted that two persons are claiming to be eye witnesses, however, none of them acknowledged each other's presence. The said aspect, according to the learned Trial Court, required further investigation.
8. It was also noted that no CCTV footages have been seized despite the fact that the incident happened in a public place and no CDR details of the accused persons, to show their presence, was also brought on record.
9. The law in regard to grant or refusal of bail is well settled. The discretion is to be exercised in a judicious manner and not as a matter of course. A detailed examination of evidence is not required to be undertaken, at the stage of consideration of bail, and only a *prima facie* reason for the grant or refusal of bail, has to be indicated.
10. The learned Trial Court should not to have gone into the investigation aspects in such detail, and made such harsh observations, as the same can influence the trial at a subsequent stage.
11. In the present case, the offence as alleged is heinous in nature where a person has been murdered in a public place. The accused persons were admitted on bail after having spent almost eleven months in custody.
12. It is, however, relevant to note that the impugned order was passed way back on 10.12.2021 and the petition challenging the impugned order has only been filed now. No plausible reason has been put forth for filing the present petition almost after three



years.

13. Much water has flown since the respondents were granted bail and the trial has since proceeded. It is not the case of the State that post the grant of bail, the respondents have in any manner impeded the cause of justice.

14. Personal liberty of an accused cannot be interfered in a cursory manner where the prosecution decides to challenge the order after almost three years.

15. In *Deepak Yadav v. State of U.P. : (2022) 8 SCC 559*, the Hon'ble Apex Court has emphasised that bail once granted, should not be cancelled in a mechanical manner. Cancellation of bail must be on very cogent and overwhelming circumstances.

16. It is to be borne in mind that at the pre-conviction stage, there is a presumption of innocence. Detention is not supposed to be punitive or preventive.

17. In such circumstances, considering the aforesaid discussion, liberty granted to the respondents cannot be taken away after more than 3 years.

18. In view of the above, this Court does not consider it apposite to entertain the present petition.

19. The petition is, therefore, dismissed.

20. This Court however deems it apposite to clarify that the observations made by the learned Trial Court or in the present order ought not be taken as opinion on the merits of the case and shall not affect the trial in any manner.

AMIT MAHAJAN, J

DECEMBER 5, 2024
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