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

+ **BAIL APPLN. 3949/2024**

ANAND SATYARTH @ ANNUPetitioner

Through: Mr. B.P. Sharma and Ms. Samsun
Nihar, Advocates.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Laksh Khanna, APP for State
with SI Shiv Dayal Kumar PS Harsh
Vihar, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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25.11.2024

1. By way of present bail application, the applicant seeks regular bail in FIR No. 34/2019 registered under Sections 302/201/34 at Police Station Harsh Vihar, Delhi.
2. Learned counsel for the petitioner/applicant states that the applicant is in custody since 29.01.2019 and till date, out of the 26 witnesses cited by the prosecution, only ten have been examined. He further submits that the present case is based on circumstantial evidence of 'last-seen'. In this regard, he further refers to the post-mortem report to submit that there is a discrepancy in the 'time since death' as the dead body was discovered at around 4 AM, however, the post-mortem report, which was conducted at around 2 PM, mentions the time since death as six hours. He also submits that in the first information recorded in the MLC, the case has been described as '*road traffic accident*'.
3. The learned APP for the State has opposed the bail application by



contending that the deceased was a complainant in a prior case being FIR No.510/2015 registered under Sections 323/308/506/34 IPC at PS Harsh Vihar, Delhi wherein the accused persons in the present case were also the accused. He further submits that on 28.01.2019 while the deceased was accompanied by his daughter, he was accosted by the present applicant along with co-accused. When they reached the railway station, they saw the present applicant as well as his brother who had stated that they wanted to talk to the deceased. The daughter of the deceased has been examined as PW-2 and in her testimony, she has deposed that she had last seen her father in the custody of the applicant as well as his brother at night. It is also stated that at the instance of the present applicant as well as the other co-accused, two *dandas* were recovered which were sent for FSL examination and as per the DNA analysis report, the blood stains found on the *dandas* matched with the blood of the deceased. Learned APP has handed over the Status Report today in the Court, which is taken on record.

4. I have heard learned counsel for the parties and perused the record placed before me.

5. The prosecution case hinges on the 'last-seen' evidence, prior motive as well as recovery of *dandas* from the possession of the applicant and the co-accused. Though the learned counsel for the applicant has referred to the initial recording of the brief history in the hospital where the deceased was brought by a cab driver, a perusal of the MLC would show that the deceased was initially taken to the hospital by a PCR van and that the history of the incident was given as '*road traffic accident*'. Pertinently, the body of the deceased was discovered on the road. As per the post-mortem report, a total of 17 injuries were found on the body of the deceased. The doctor who has



tendered the post-mortem opinion has been examined, however, no such question as to whether the injuries on the body of the deceased were possible by road accident, was put to the said witness. A perusal of the MLC would also show that the deceased was brought to the hospital at about 03:21 hours and was declared 'brought dead' at about 03:56 hours.

6. Considering the aforesaid facts and circumstances, I find no ground to entertain the present application at this stage and the same is accordingly dismissed.

7. Needless to state that 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 25, 2024/rd