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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3957/2024**

AMAN

.....Petitioner

Through: Mr. Rajat Kumar, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
along with Inspector Rahul Kumar
P.S. South Avenue and Inspector
Ganesh Kumar, Special Cell.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
28.11.2024

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1. By way of the present application, the applicant seeks regular bail in FIR No. 09/2019 registered under Section 302 IPC at P.S. South Avenue, New Delhi.
2. Learned counsel for the applicant submits that the prosecution has cited four circumstances against the applicant, the first being that the applicant has been identified by PW2 (*Rohit*). In regards to this, he submits that proper identification of the applicant by the said witness for the first time in Court is unreliable. The next circumstance against the applicant is that the recovery of the knife is at the instance of the applicant. On this aspect, it is stated that alongwith the chargesheet, two sketches of knife were prepared in which one was serrated and another one was sharp. Third



circumstance used to establish the present case is the CDR which rather shows that the applicant was not at the spot at the time of incident. The fourth circumstance is the TIP refusal that was done as the I.O. had after the grant of JC moved an application for taking the PC remand. He submits that all material witnesses have been examined and prays that the applicant may be released on bail.

3. The application has been opposed by learned APP for the State who states that the present case relates to an incident caused on account of a love triangle between the deceased, his wife, *Anju* (co-accused) and one *Shivam*. It is further stated that *Shivam* alongwith his brother *Dev* hired the present applicant to carry out commission of the offence. Moreover, it is stated that on analysing the CDR of the present applicant and *Dev*, it was found that both of them had travelled from *Meerut* to *Anand Vihar*, however, while the applicant's mobile phone got switched off much before *Anand Vihar*, CDR details of *Dev* continued and thus, establishing presence of both of them at the spot. Lastly, it is stated that the knife that was recovered at the instance of the applicant and the blood stains on the knife were opined to match the DNA of the applicant as per the FSL Report.

4. I have heard learned counsel for the parties and have also perused the record, including the testimony of PW2 (*Rohit*).

5. Perusal of testimony of PW2 shows that the said witness states that he has seen the applicant with the knife at about 12 midnight. It is also noted that the witness had also stated that at that time, the applicant's face was covered with a handkerchief.

6. Considering the facts and circumstances of the case and also the fact that TIP of the applicant could not be conducted on account of refusal by



him, and the said witness has identified the applicant for the first time after a gap of four and half years, at the time of his deposition. Considering the factum of identification of the applicant after four and half years in the light of the fact that the applicant was stated to be seen with face covered with a handkerchief, the court is inclined to release the present applicant on bail. Accordingly, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.25,000/- and one surety of the like amount to the satisfaction of the concerned Jail Superintendent/Duty JMFC/Link JMFC/concerned Trial Court and subject to the following further conditions :-

- i) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- ii) 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.
- iii) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
- iv) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.

8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.

9. Copy of the order be uploaded on the website forthwith.

10. 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.

NOVEMBER 28, 2024/ssc

MANOJ KUMAR OHRI, J