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

+ **BAIL APPLN. 4133/2024**

**KEWAL KRISHAN**

.....Petitioner

Through: Ms. Richa Kapoor and Ms. Sakshi,  
Advocates.

versus

**STATE (NCT OF DELHI)**

.....Respondent

Through: Mr. Tarang Srivastava, APP for the  
State.  
Mr. Rishab Rajput, Advocate for  
complainant.

**CORAM:**

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**ORDER**  
**20.12.2024**

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By way of the present petition filed under section 483 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks regular bail in case FIR No.226/2024 dated 27.03.2024 registered under sections 306/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Narela, Delhi.

2. Notice on this petition was issued on 13.11.2024, pursuant to which Status Report dated 12.12.2024 has been filed.
3. Nominal Roll dated 10.12.2024 has also been received from the Jail Superintendent.
4. Pursuant to what was recorded in order dated 13.11.2024, Ms. Richa Kapoor, learned counsel appearing for the petitioner has handed-up a compilation of documents under index dated 20.12.2024, enclosing



therewith a copy of the communications referred to in that order. The compilation of documents is taken on record.

5. Ms. Kapoor submits, that the petitioner seeks bail on the following 04 principal grounds:

- 5.1. On the ground of parity with co-accused Devender, who has been enlarged on regular bail *vide* order dated 25.10.2024 passed by the learned Sessions Court;
- 5.2. On the ground that the petitioner was initially granted interim protection *vide* order dated 03.04.2024 by the learned Sessions Court and was co-operating with the investigation; however, subsequently, the Investigating Officer ('I.O.') mischievously added the offences under sections 3(l)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 ('SC/ST Act'), thereby bringing the petitioner within the ambit of the harsh provisions of section 18 of the SC/ST Act, by reason of which the petitioner's anticipatory bail plea was dismissed by the learned Sessions Court *vide* order dated 17.05.2024;
- 5.3. On the ground that the essential ingredients of the offence of abetment to suicide under 306 IPC are not made-out in the present case, especially since the petitioner was *not* the superior officer of the deceased who could have taken any adverse action against the deceased; and if anything, it was co-accused Devender who was in a position to act against the deceased; and the said Devender has already been enlarged on regular bail;



- 5.4. On the ground that charge-sheet has already been filed in the case and cites 33 prosecution witnesses; trial in the matter is yet to commence; but in the meantime the petitioner has already suffered judicial custody for about 1-1/2 months as an undertrial.
6. Expanding on the aforementioned grounds, Ms. Kapoor argues, that the case of the prosecution is based solely on the alleged 'suicide note' left by the deceased, who has said that the petitioner and co-accused Devender were responsible for jeopardizing his job, thereby forcing him to take the extreme step of committing suicide.
7. Ms. Kapoor submits however, that this statement of the deceased is completely misconceived and baseless, inasmuch as the deceased was repeatedly absent from work without leave, for long spells of time. In this regard, learned counsel places reliance on extracts of the Attendance Register of the Municipal Corporation, copies of which have been appended to the petition, which reflect that the deceased was absent without leave from work *from 16.11.2023 to 27.03.2024*.
8. Counsel further submits, that it is important to note, that by reason of his repeated absence, the deceased was issued Show-Cause Notice dated 15.12.2023, asking him to show-cause for his unauthorized absence; and for that purpose, absence reports dated 11.12.2023, 15.01.2024 and 18.03.2024 were prepared by co-accused Devender.
9. It is further pointed-out, that in response to a letter dated 25.07.2024 sent by the the I.O. viz. ACP (Narela), the Sanitary Inspector, Narela has categorically stated that the petitioner was not the Inspector of Narela Ward on 27.03.2024; and that though both the petitioner as



well as co-accused Devender were posted as Assistant Sanitary Inspectors in the Narela Ward, it was only co-accused Devender who worked in direct contact with the deceased.

10. Ms. Kapoor further points-out that when the deceased was previously absent from work from 10.06.2022 to 28.11.2022 on grounds of his illness, his rejoining was approved by co-accused Devender *vide* communication dated 02.12.2022.
11. Most importantly, Ms. Kapoor argues, that in its recent decisions in ***Nipun Aneja and Ors. vs. State of Uttar Pradesh***<sup>1</sup> and ***Jayedeeepsinh Pravinsinh Chavda and Ors. vs. State of Gujarat***<sup>2</sup>, the Supreme Court has held that in cases concerning the offence of abetment to suicide, the courts ought to “ascertain on the basis of the materials on record whether there is anything to indicate that even *prima facie* the accused intended the consequences of the act i.e., suicide”; and whether there exist any actions on part of the accused, *proximate to the time of suicide*, which *incite the deceased to commit suicide*. Learned counsel accordingly submits, that in the present case, since the petitioner was not dealing with the deceased in any official or personal capacity, the essential ingredients of the offence u/s 306 IPC are not even *prima facie* made-out.
12. On the other hand, Mr. Tarang Srivastava, learned APP appearing for the State opposes the grant of bail, submitting that the exact role of

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<sup>1</sup> Order dated 03.10.2024 in Criminal Appeal No.654/2017

<sup>2</sup> [2024] 12 S.C.R. 439



the petitioner in the act of suicide would have to be determined in the course of trial.

13. Learned APP further argues, that information sought under section 91 of the Code of Criminal Procedure, 1973 shows that the petitioner alongwith the co-accused Devender were the supervisors of the deceased; that in the course of their interaction with the deceased they used caste slurs to harass the deceased; and that the petitioner and co-accused also demanded bribe from the deceased as well as from other workers in relation to their employment.
14. The court has also heard Mr. Rishab Rajput, learned counsel who appears on behalf of the brother (complainant) and the wife of the deceased.
15. Mr. Rajput submits, that he has instructions to state that the brother and wife of the deceased *do not oppose* the grant of bail to the petitioner as such, except that they apprehend that, if released on bail, the petitioner may threaten them.
16. Upon a conspectus of the facts and circumstances of the case, the considerations that weigh with the court at this stage are the following:
  - 16.1. The record shows that the deceased had remained absent from work without leave for long spells of time, and in relation to such absence, 'official action' was initiated against him, including by issuing a show-cause notice;
  - 16.2. Furthermore, in response to letter dated 25.07.2024 sent by the I.O., the Sanitary Inspector, Narela has said that the petitioner was *not* the Inspector of the Narela Ward and that it was only



co-accused Devender who was working in direct contact with the deceased;

16.3. Also, on an earlier occasion when the deceased had remained absent from work, the approval for the deceased rejoining work was issued by co-accused Devender *vide* communication dated 02.12.2022, which would show that it was Devender who was supervising and controlling the work of the deceased; and

16.4. Most importantly, there is no material, at least at this stage, to support the allegation that the petitioner had *incited* or *goaded* the deceased *to commit the act of suicide*; nor is there any proximate link between the harassment allegedly caused by the petitioner and the act of the deceased having committed suicide. There also appears to be nothing on record to evidence that the petitioner had *the intention* to abet *the act of suicide* by the deceased.

17. In the circumstances, this court is inclined to grant to the petitioner – **Kewal Krishan s/o Om Parkash** – *regular bail* pending trial, subject to the following conditions:

17.1. The petitioner shall furnish a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the learned trial court;

17.2. The petitioner shall furnish to the I.O./S.H.O, P.S.: Narela, Delhi a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 17.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 17.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 17.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
18. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
19. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
20. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
21. The petition stands disposed-of in the above terms.
22. Other pending applications, if any, are also disposed-of.

**ANUP JAIRAM BHAMBHANI, J**

**DECEMBER 20, 2024**

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