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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4325/2024**
MOHIT @ JHAMELA

.....Petitioner

Through: Mr. Zeeshan Diwan, Advocate
(DHCLSC) with Mr. Harsha,
Advocate.

versus

THE STATE (GOVT. OF NCT) DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
along with Inspector Mukesh Kumar
P.S. Janak Puri.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
19.12.2024

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1. The present petition has been filed seeking regular bail in FIR No. 360/2021 registered at Police Station Janak Puri for the offences punishable under Section 302 IPC & Section 25/54/59 Arms Act.
2. Learned counsel for the petitioner/applicant submits that the applicant has been in custody since 18.07.2021 and till date only 8 witnesses have been examined out of a total of 19 witnesses. He further submits that the remaining witnesses are formal in nature.

On merits, it is stated that as per the prosecution's case, the incident allegedly occurred on 18.07.2021, with the allegations that the deceased was stabbed to death by the present applicant. He submits that in this regard, the prosecution has relied on the statements of witnesses, namely, *Shabnam* and



Ramesh. Witness *Shabnam* had passed away before recording of her testimony, while witness *Ramesh* appeared before the Court and was examined as PW2, however, it is submitted that he has not supported the prosecution's case. It is submitted that the other material witness is the father (*Sunil*) of the deceased, however, he is not an eye witness to the incident and only relayed what was conveyed to him by *Shabnam* and *Ramesh*. Lastly, it is stated that the knife was recovered from an open place near the drain.

3. Learned APP for State has opposed the bail application by contending that as per the statement of *Sunil*, the father of the deceased, he was informed about the incident by one boy and when he reached the spot, he found his son lying under the bridge near the drain. While he was taking away, he was told by one girl *Shabnam* that it was the present applicant who had stabbed the deceased. The investigating agency has also recovered a knife at instance of the applicant. The knife was sent for analysis and was confirmed to have the blood of the deceased on it. He, however, confirms that other exhibits sent for DNA analysis have also been found positive with the samples matching with the blood of the deceased. He, on instructions, submits that all the material witnesses stand examined and further that the applicant is not involved in any other case.

4. I have heard learned counsel for the parties.

5. Initially, though the prosecution's case is hinged upon the testimony of eye witness, however, as noted above, one witness did not appear before the Court as she passed away prior to her deposition before the Court and the other witness *Ramesh* did not support the prosecution's case on the identity, including the role ascribed to him.



6. There is no other incriminating evidence against the present applicant except the recovery of knife. Other exhibits sent for analysis were either belonging to the deceased or the complainant. Considering the totality of facts and circumstances of the case as well as taking into account the period of custody of the applicant and the fact that 11 witnesses are still to be examined, 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/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty J.M./Link J.M. 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.

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 and necessary compliance.



9. Copy of the order be uploaded on the website forthwith.
10. 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

DECEMBER 19, 2024/ssc