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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4340/2024**
AJMER SINGHPetitioner
Through: Mr. Paranjay Chopra, Advocate

versus

STATE OF NCT OF DELHI THROUGH CHIEF/PRINCIPAL
SECRETARYRespondent
Through: Mr. Laksh Khanna, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
19.12.2024

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1. By way of the present application, the petitioner/applicant seeks regular bail in FIR No.28/2022 registered under Section 302 IPC at P.S. Bharat Nagar, Delhi.
2. Learned counsel for the applicant submits that the applicant has been in custody since 10.01.2022 and in the trial, the witnesses have not completely supported the prosecution's case. In this regard, he has referred to the testimonies of PW-1 and PW-2, the sister and the mother of the deceased, respectively. He further submits that even the weapon of offence i.e. *danda* seized is not connected to the offence inasmuch as no blood stain was found on it and the suggestion given to the witnesses that the beatings were given by the *danda* was also denied by them. He specifically referred to the testimony of PW-1, who denied being told by the deceased that he was given beatings by the applicant, his father. Similarly, PW-2 has also denied the suggestion that the deceased had told her that the beatings were inflicted with a *danda*.



3. Learned APP for the State has opposed the present application by contending that the applicant is the father of the deceased. The deceased had been bedridden for the last about 14 years prior to the incident on account of an accident. He further submits that the death has taken place in the house where the deceased was residing alongwith the applicant. Lastly, it is submitted that out of 21 witnesses, 8 witnesses have been examined.

4. I have heard learned counsel for the applicant as well as learned APP for the State and have also gone through the material placed on record.

5. As per the prosecution's case, the deceased was confined to bed on account of his injuries and was dependent on others for his daily needs. The incident pertains to the intervening night of 8/9.01.2022. The prosecution has cited two witnesses i.e. PW-1/ *Rekha Kaur* (sister of the deceased) and PW-2/ *Ramesh Kaur* (mother of the deceased). In her testimony, PW-1 stated that on the night of the incident, her father had come home in a drunken condition and started quarrelling with her. She served dinner to the deceased at about 10:30 P.M. and then left for her sister's house to call her mother. Since the applicant was quarreling with her, she was advised by her mother not to go home and rather stay at her sister's house. The next morning, at about 8:45 A.M., when she came back, she found her brother lying in a bleeding condition on the bed, with the mattress stained in blood. She immediately rushed to her sister's house to call her mother. When she alongwith her mother came, her brother was still alive. She served tea to him and also gave him milk with turmeric. She further deposed that when her mother asked what had happened, her brother replied that he was beaten by his father with a *danda*. At that stage, she volunteered to say that this information was told by some neighbour. The mother of the deceased has



been examined as PW-2. She categorically deposed that when she reached the house and asked her son as to what had happened, he replied, “*papa ne mara hai*”.

5. As noted above, the injured was unable to move and was confined to bed since a long time. The death has taken place inside the house. As per the testimony of PW-1, when she left the house at about 10:30 P.M., the deceased was alone with the applicant.

6. Keeping in view the testimonies of PW-1 and PW-2, the fact that there is no suggestion of any house break or stranger coming in the house, the onus is on the applicant under Section 106 of the Indian Evidence Act, which shall be seen by the Trial Court at the appropriate stage, however, at this stage, this court is not inclined to entertain the present application. Accordingly, the same is 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

DECEMBER 19, 2024

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