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

+ **BAIL APPLN. 4352/2024**

RAM @ TUKARAM

.....Petitioner

Through: Mr. Deepanshu Goswami, Ms. Kirti Chauhan, Mr. Rohit Sahrawat and Ms. Himanshi Goswami, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.12.2024

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1. By way of present bail application, the applicant seeks regular bail in FIR No. 54/2021 registered under Sections 302/307/34 IPC and Section 27 of the Arms Act at P.S. Sadar Bazar, Delhi.

2. Learned counsel for the applicant has been in custody since 20.02.2021. She submits that along with the charge-sheet, a total of 23 witnesses have been cited by the prosecution and till date the prosecution has examined only 5 witnesses. She submits that the remaining prosecution witnesses are only formal in nature.

On merits, it is stated that though the prosecution has arrayed the applicant as an accused and attributed the role of causing stab injuries to the deceased, the prosecution witnesses cited in support of the same, have however turned hostile. In this regard, she has referred to the testimony of Krishan Kumar (PW-2), Saurabh @ Lallu (PW-3), Karan (PW-4) and Umesh (PW-5). Insofar as witness Suresh (PW-1) is concerned, she submits



that though in his examination-in-chief, he has reiterated his statement recorded under Section 161 Cr.PC, however in his cross-examination, he has stated that his deposition made during examination-in-chief was under pressure of the police. She further submits that though as per the prosecution case, the applicant had caused injuries on the neck of the witness *Saurabh*, even he has not supported the prosecution case on the said aspect as well. She submits that even the MLC of *Saurabh* was not confronted during cross-examination conducted by the learned APP for the State.

3. The application is opposed by learned APP for the State who submits that not only *Suresh*, the eye witness, in his examination-in-chief has identified the applicant but also ascribed him the role of causing stab injuries to the deceased *Jackie @ Jai Kishan*, which led to his death. The knife used in the incident was also recovered at the instance of the present applicant and on DNA analysis, the blood found on the knife also matched with the blood of the deceased. It is further stated that the injuries opined in the post-mortem report are in line with the prosecution case as well as the testimony of eye witness *Saurabh*. Lastly, it is stated that the said witness has turned hostile during his cross-examination which was conducted after two years of his examination-in-chief.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The prosecution has cited five witnesses in support of its case, one of them being *Suresh Kumar*, the brother-in-law of the deceased. The other injured eye witness was *Saurabh* and the remaining three witnesses were the neighbours. While the neighbours and injured witness *Saurabh Kumar* did not support the prosecution case at all, the eye witness *Suresh Kumar* though



supported the prosecution case in his examination-in-chief, however turned completely hostile during his cross-examination. He was also cross-examined by learned APP for the State when he again did not support the prosecution's case. The effect of the examination-in-chief, in light of him subsequently turning hostile, would be evaluated by the learned Trial Court at the conclusion of the trial, however at his stage, considering that 18 more witnesses are yet to be examined and taking into account the period of his custody, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty JMFC/Link JMFC 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.
6. The bail application is disposed of in the above terms.



7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.
8. Copy of the order be uploaded on the website forthwith.
9. 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 only for the purpose of the disposal of the present bail application.

DASTI

MANOJ KUMAR OHRI, J

DECEMBER 18, 2024/*rd*