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

+ **BAIL APPLN. 4595/2024**

SANDEEP KUMAR SHARMAApplicant
Through: Mr. Manish Tiwari and
Ms. Thashmitha K M,
Advs.

versus

STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Manoj Pant, APP for
the State with Mr.
Narendra Kumar, PS
Mayur Vihar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
13.12.2024

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CRL.M.A. 37594/2024 (*exemption from filing certified and typed copies of orders, documents and dim annexures*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. By the present application, the applicant seeks regular bail in FIR No. 240/2017 dated 02.07.2017, registered at Police Station Mayur Vihar Ph-I, for offence under Section 364 of the Indian Penal Code, 1860 ('IPC'). Chargesheet in the present case was filed under Sections 364/302/120B/34 of the IPC.
4. The bail application filed by the applicant on an earlier occasion, was disposed of by order dated 29.04.2024 noting the submission of the learned Additional Public Prosecutor for the State that only few witnesses remained to be examined and the



entire evidence was likely to be recorded in three to four months.

5. The applicant has now approached this Court again stating that the evidence is not complete.

6. The learned Additional Public Prosecutor for the State submits that only two witnesses remain to be examined and one of them has partly been examined.

7. The Hon'ble Apex Court, recently, in the case of ***X v. State of Rajasthan & Anr. : 2024 INSC 909***, in a challenge to the order passed by the High Court of Judicature for Rajasthan whereby the bail application filed by the accused was allowed observed as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

8. The applicant seeks bail on merits pointing out certain



discrepancies in the evidence recorded. Undisputedly, the trial is at the fag end. It is not the case of the applicant that the trial has unreasonably been delayed.

9. This Court, therefore, does not consider it apposite to entertain the present application at this stage.

10. The present application is accordingly dismissed.

AMIT MAHAJAN, J

DECEMBER 13, 2024

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