



\$~37

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4752/2024**

NASIR

.....Applicant

Through: Mohd. Mustafa, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for
the State.

Mr. Sandeep Kumar, PS
Ambedkar Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **23.12.2024**
CRL.M.A. 38769/2024 (exemption)

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

BAIL APPLN. 4752/2024

3. The present application is filed seeking regular bail in FIR No. 194/2019 dated 20.04.2019, registered at Police Station Ambedkar Nagar for offences under Sections 307 of the Indian Penal Code, 1860 ('IPC'). The chargesheet was filed under Sections 302/498A/34 of the IPC.
4. The applicant is facing the trial for committing the murder of his wife. The bail application filed by the applicant on an earlier occasion was dismissed by this Court by order dated 13.12.2023 in Bail Application No. 1749/2023 noting that as per the MLC, the injuries inflicted were sufficient to cause death.
5. This Court had also noted that the eye witness, who was present at the spot, had categorically deposed against the

BAIL APPLN. 4752/2024

Page 1 of 3



applicant and the applicant had not denied his presence at the spot. Taking note of the testimony of the eye witness PW-1 and the gravity of the offence, the bail application was dismissed by this Court.

6. The applicant by way of the present application seeks to contend that the testimonies of the witnesses are not reliable. Concededly, there is no change in circumstance since the order dismissing the bail of the applicant passed by this Court. The only development thus far is that a few more witnesses have been examined.

7. It is not the case of the applicant that the testimonies of the witnesses who have deposed subsequent to the dismissal of the bail application by this Court, exonerates the applicant in the present case. The discrepancy, if any, will be seen after the entire evidence is led.

8. The practice of filing of multiple bail applications after examination of each witness is deprecated. Though the applicant has the right to file successive bail applications, the same can only be entertained in light of material change in circumstances.

9. The Hon'ble Apex Court in the case of ***Kalyan Chandra Sarkar v. Rajesh Ranjan : (2004) 7 SCC 528*** had observed as under:

“20. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.”

10. It has been held in a catena of judgments that there must be change in circumstances to warrant fresh consideration of the bail application. The successive bail applications filed without



there being any material change in circumstances, is strongly discouraged, and is a gross abuse of the process of law.

11. Recently, the Hon'ble Apex Court in the case of ***X v. State of Rajasthan & Anr. : 2024 INSC 909*** in relation to entertaining bail applications in serious offences like rape, murder, dacoity, once the trial commences and the prosecution is examining the witnesses 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.”

12. In the present case, this Court has already dismissed the application on an earlier occasion considering the merits of the case. Therefore, no ground is made out to entertain the present application. The application is, therefore, dismissed.

AMIT MAHAJAN, J

DECEMBER 23, 2024/“SK”

BAIL APPLN. 4752/2024

Page 3 of 3