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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 575/2025

SAHIL

.....Applicant

Through: Mr. Dharendra Singh, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aashneet Singh, APP
for the State with Insp.
Vinod Ahlawat, main I.O.
and Insp. Hawa Singh, PS
Shastri Park.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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28.04.2025

1. The present application is filed seeking regular bail in FIR No. 299/2023 dated 19.04.2023 ('**FIR**'), registered at Police Station Shastri Park, for the offence under Section 302 of the Indian Penal Code, 1860 ('**IPC**'). Chargesheet has been filed against the applicant for the offences under Sections 302/201/34 of the IPC.

2. The brief facts of the case are that on 19.04.2023, FIR was registered on receipt of information that the dead body of a young boy had been found near pillar 92-93 of pushta road, Khadar area, New Usmanpur, Delhi. The victim was identified as Mohd. Alam and he was aged 16 years old at the time of his death and he was found to have suffered multiple stab wounds.

3. The mother of the victim disclosed that he had left in the night of 18.04.2023, at about 9:30 pm, with his acquaintances, including the applicant. She further disclosed that the accused



persons had threatened the victim due to his relationship with the applicant's sister, who was engaged to be married to co-accused Yamin. The statement of the cousin of the victim, namely, Mohd. Dastagir was recorded, who disclosed that the victim had made a call to him on 18.04.2023, at about 9:42 PM, and stated that the accused persons were challenging him and asking him to accompany them to Pushta road to settle the matter.

4. During investigation, CCTV cameras near the spot were examined and the owner of one shop—Firoz Khan informed that he had seen the victim going with the accused persons towards the spot where the body was found, and he had called the victim due to non-payment. In CCTV footages, it was seen that the victim was going towards the spot in the company of the accused persons at 9:36 PM, when he was called by Firoz Khan to his shop. Thereafter, the accused persons returned from that side without the victim. The accused persons were arrested on 20.04.2023. The weapon of offence was recovered at the instance of co-accused Yamin. The clothes worn by the applicant were also recovered.

5. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

6. He submits that the case of the prosecution is riddled with inconsistencies and the applicant is sought to be implicated essentially because he was last seen with the victim. He submits that there are no eye witnesses to support the case of the prosecution and the alleged motive for the purported murder is weak and not concrete. He submits that the case of the prosecution seems implausible as it is unclear as to why the victim accompanied the accused persons if he was aware of their



intentions, as is evident from the statement of the victim's cousin, who stated that the victim had told him that the accused persons had challenged him to settle the dispute by fighting.

7. He submitted that the color of the victim's shirt is inconsistent and the same casts a doubt on the case of the prosecution. He further submits that the width of the knife alleged to be the weapon of offence has not been mentioned.

8. He submits that the medical evidence suggests that the death occurred in a different time window than suggested by the prosecution as it is unclear as to when the rigor mortis set in. He submits that as per the mother of the victim, he had left the house after dinner, however, no food was found in his stomach during post mortem. He submits that the same furthers the doubt on the case of the prosecution.

9. He submits that alcohol was found in the body of the victim, however, the chargesheet or supplementary chargesheet are silent on any consumption of alcohol by the victim. He submits that it is also unlikely that the accused persons committed the crime in such a short span of time between them being spotted walking to the spot with the victim and returning.

10. He further submits that the charges have been framed against the applicant and no purpose will be served by subjecting him to further incarceration.

11. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant.

12. He submits that there is strong evidence against the applicant, including, CCTV footages showing him going towards the spot of the incident with the victim and co-accused, statements of the cousin and mother of the victim and strong



motive.

13. He submits that the arguments raised by the applicant are hyper technical and unmerited and they cannot be delved into at this stage.

14. I have heard the counsel and perused the record.

15. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

16. At the outset, it is noted that the offence charged against the applicant is heinous and grave. It is the case of the prosecution that the applicant along with the co-accused brutally murdered the victim due to some prior enmity over the victim being in a relationship with the applicant's sister.

17. The applicant has raised a number of arguments ranging from the alleged inconsistency in the medical evidence in relation to the time of death to the implausibility of the case of the prosecution due to the motive being not concrete.

18. However, it cannot be ignored that while considering an application of the accused seeking bail, the Court would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused by appreciating hyper technical arguments as the same is a matter of trial.

19. The grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and



evaluate, albeit briefly, factors such as the *prima facie* case, the nature and severity of the crime and the accused's likelihood to tamper with evidence, among other considerations as noted above.

20. In the present case, the case of the prosecution is built on circumstantial evidence. It is not in doubt that the same alone is sufficient for conviction of an accused. It is trite law that where the 'last seen' theory is relied upon, the circumstance of the accused and the applicant being last seen together does not by itself lead to the inference that the accused committed the crime. Other circumstances have to be there to establish connectivity between the accused and the crime [Ref. ***Kanhaiya Lal v. State of Rajasthan : (2014) 4 SCC 715***].

21. There is CCTV footage that *prima facie* supports the case of the prosecution that the applicant was last seen with the accused persons. The same is supported by a statement of a shop keeper as well as the mother and cousin of the victim. It is pointed out that the cousin of the victim has also stated that he received a call from the victim stating that the accused persons had asked him to accompany them to the spot to clear the accounts of their dispute by fighting. *Prima facie*, a clear motive has also been alleged by the prosecution.

22. While it would be seen after the parties have led their evidence as to whether the entire chain of circumstances leading to the commission of the crime has been established, at this stage, the benefit of minute inconsistencies of such nature cannot be accorded to the applicant. It cannot be ignored that the victim was seen heading towards the spot, where his dead body was found, with the accused persons, whereafter, the accused persons returned alone from there. No cogent ground is made out which



casts such doubt, at this stage so as to enlarge the applicant on bail.

23. It is pertinent to mention that while deciding the question of bail, the Court must carefully balance the individual's right to liberty with the interests of justice. 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."

24. The nature of the crime and the *prima facie* weight of the evidence suggests that granting bail at this stage would not be in the interest of justice.



25. While the applicant was kept close to two years in custody, however, it cannot be ignored that the applicant has also been charged for an offence under Section 302 of the IPC. The applicant, if convicted, would be sentenced to imprisonment for life. For this reason, merely because the investigation is complete and charges have been framed, the same alone cannot be a ground to grant bail to the applicant at this stage.

26. Accordingly, taking into account the submissions made by the learned counsel and material available on record, this Court is of considered opinion that *prima facie*, there are serious allegations against the applicant which at this stage cannot be said to be without any material.

27. Considering the facts and circumstances of this case, this Court is not inclined to grant bail to the applicant at this juncture.

28. It is made clear that the observations made in the present case are only for the purpose of considering the bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

29. In view of the above, the present bail application is dismissed.

AMIT MAHAJAN, J

APRIL 28, 2025