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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3248/2024**
CHANDER KALA ALIAS CHANDAPetitioner
Through: Mr. Abhishek Gupta, Adv.
versus
STATE OF NCT OF DELHIRespondent
Through: Mr. Aashneet Singh, APP
SI Paramjeet, PS Ranhola

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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29.01.2025

1. This is a petition filed under section 439 read with section 482 of the Code of Criminal Procedure, 1973 seeking grant of regular bail to the petitioner in FIR No. 449/2022, dated 18.05.2022 registered at PS Ranhola, under sections 302 of IPC, 1860. The chargesheet has been filed under sections 302/120B/34 of IPC, 1860.
2. Briefly stating the facts are that on 18.05.2022, a person, namely, Mr. Veer Bahadur was found injured and unconscious lying on the bed in the bedroom on the 2nd floor of House. No. RZ-70, Gali No. 01, Deep Enclave, Part-II, Vikash Nagar, Delhi. Mr. Veer Bahadur had marks of injuries on his head and a there was a lot of blood on the floor. Thereafter, when the petitioner was taken to the hospital, he was declared dead (deceased).
3. No eyewitness was found at the spot. Hence, from the circumstances, it was found that a crime under section 302 of IPC, 1860 has been committed.
4. Hence the present FIR was registered.



5. During the course of investigation, it was found that the deceased lived with his family including his wife and his son, namely, Akash. Further, the deceased was earlier also married. He was married with the petitioner around 10-11 years ago, and the petitioner is the second wife of the deceased. From the said wedlock, a son of 10 years and a daughter of about 2 years were born.

6. The deceased had also arranged a house for the petitioner and their children being H. No. RZ-70, Gali No. 01, Deep Enclave, Part-II, Vikash Nagar, Delhi and had also opened a shop there by the name of 'Shri Balaji Cloth', which was run by the petitioner with the help of the deceased. The deceased used to visit the petitioner every three to four days and used to stay there at night.

7. On 17.05.2022, the deceased left his home saying that he was going to the petitioner's house to get the committee money. After that, the deceased took the committee money and stayed with the petitioner on the night of 17-18.05.2022.

8. Consequently, at around 1:30 a.m., Akash got a call from the petitioner that the deceased was killed by thieves. Akash reached the spot and found that his father was lying unconscious and was soaked in bed.

9. During interrogation, the petitioner confessed that she had got her husband killed by giving money to one, namely, Jumma @ Jumman, brother of one Nargis, who had worked at the petitioner's shop. On the night of 17-18.05.2022, she opened the main gate and gave entry to Jumma. Nargis had already died a year ago and her SIM was used to contact her brother Jumma.

10. On 21.05.2022, Jumma was arrested and the weapon of the offence was also recovered from him. He also stated that he received Rs. 70,000./-



from the petitioner to commit the crime, out of which he had spent Rs. 20,000/- and remaining amount of Rs. 50,000/- was recovered from him.

11. Mr. Gupta, learned counsel appealing on behalf of the petitioner submits that the petitioner submits that as per the chargesheet, no evidence has been attached which may lead to direct involvement of the petitioner in the alleged offence.

12. He further states that the son and daughter of the petitioner are dependent on the petitioner. Further the son of the petitioner is staying at his *nana's* house, who are themselves paralyzed and are unable to take care of themselves.

13. He further states that the entire case of the prosecution is based on the circumstantial evidence and there is no eye witness in the present case.

14. *Per contra*, Mr. Singh, learned APP appearing on behalf of the respondent opposes the bail and submits that the crime of the petitioner is clearly proved by circumstances surrounding the event. Further, the allegations against the petitioner are serious in nature and the petitioner was the main conspirator for the murder.

15. He further states that petitioner revealed the name of the co-accused i.e. Jumma @ Jumman and the weapon of the offence and the contract money was also recovered from him. Further, the co-accused and material witnesses are yet to be examined.

16. I have heard learned counsels for the parties.

17. In the present case, the petitioner has been in custody since 19.05.2022 and has already undergone incarceration for a period of 2 years and 8 months. In addition, the petitioner has clean antecedents and no other criminal case is pending against her.



18. Even though on one hand, the allegations against the petitioner are grave and serious in nature and the petitioner is accused of planning the murder of her husband, however on the other hand, the petitioner also has a daughter who is 3 years old and is staying with the petitioner in the prison. In this a coordinate bench of this court in ***Kajal v. State*** 2020 SCC OnLine Del 1307 *inter alia* held as under:

“5. We have considered the facts of the case. While on the one hand, the appellant has been found to be guilty of serious and heinous crime of committing murder of her own minor stepson, on the other hand, the son of the appellant – who is also a minor and 7 years of age, is suffering due to the loss of care & company of his mother. The family of the appellant is poor and the father of the child is working as a rickshaw puller and has to work throughout the day to make both ends meet.”

19. A perusal of the aforesaid judgment shows that the sentence of the appellant was suspended keeping in mind, the welfare of the minor child of the appellant therein. The welfare of a minor child of an accused is important and is a significant consideration while granting bail or suspending the sentence.

20. This Court cannot ignore the fact that the petitioner's minor daughter is being deprived of a proper upbringing, which is adversely affecting her welfare due to the petitioner's incarceration. In my view, the child is at a tender age and requires a nurturing environment, something that cannot be provided within the confines of a prison.

21. In addition, the prosecution has cited 32 witness in total, out of which only 8 witness have been examined and the trial is unlikely to conclude in



the near future. Till the trial is concluded, the petitioner is presumed to be innocent.

22. The rights under Article 21 of the Constitution of India are paramount and every accused is entitled to a speedy trial.

23. For the reasons noted above, the petition is allowed and the petitioner is directed to be released on regular bail in FIR No. 449/2022, dated 18.05.2022 registered at PS Ranhola, under sections 302 of IPC, 1860subject to the following terms and conditions:

- (a) The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the concerned Trial Court;
- (b) The petitioner shall provide her mobile number to the concerned IO, which shall be kept in working condition and switched on at all times. The petitioner shall also provide her permanent residential address and in case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned IO as well as to the concerned Court;
- (c) The petitioner shall not leave the country without permission of the competent Court during the bail period and surrender her passport, if any, at the time of release before the concerned Court;
- (d) The petitioner shall not directly/indirectly try to get in touch with any prosecution witnesses or tamper with the evidence.
- (e) The petitioner shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending



cases, if any.

24. The petition stands disposed of in the aforesaid terms.

25. Nothing stated hereinabove shall tantamount to expression of opinion on the merits of the case.

26. A copy of this order shall be communicated electronically to the concerned Jail Superintendent for information and necessary compliance.

JASMEET SINGH, J

JANUARY 29, 2025/sp

Click here to check corrigendum, if any