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

+ **BAIL APPLN. 3313/2024**

KAMRUDDIN

.....Petitioner

Through: Mr. Mohd. Shamikh & Mr. Nazim,
Advvs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

09.01.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 47/2018 under Section 302 of the IPC, registered at P.S. Kalyanpuri.
3. The case of the prosecution, as per the status report dated 06.01.2025 is as under:-

“Most respectfully, it is submitted that present bail petition was filed by the petitioner Kamruddin in the present FI,R No 47/2018, U/s 302 IPC, PS Kalyan Puri, Delhi. The brief facts of the case are that the present case was registered on the statement of Abhisek Kumar S/O Ram Ashre R/o 14/126, TRILOKPURI, IIND floor, Delhi Age - 21 Yrs. Mob. 8581085570. He stated that his family own an auto bearing RC No. DL 1RV 9373. He drives this auto in night and his father used to drive it in day. On 03/02/18 at 1500 Hrs. he took the auto from his father and went out to the stand. On 04/02/18 at 0600 Hrs. he returned to his home with auto. He went to 2nd



floor where his father was sleeping. He found the door of room opened and his father was lying on the cot. He called his father but he did not respond then he removed the blanket from the head of his father. He found the throat of his father slit. He shook his father but he still did not respond. He found his father dead. He found one vegetable cutting knife lying near the cot of his father. The knife had stains of blood. Then he informed his relatives and made a PCR Call that somebody murdered my father by slitting his throat. When he further searched, he found that the mobile of his father, make Micromax having Nos. 9958161429/7503167413 and wallet missing. The IO recovered one empty bottle of liquor, make Royal Green, one steel glass, one jug, one chips packet from the spot. The IO also recovered some bones, onion peels and an empty quarter of Besto whisky from a polythene hanging behind the door. The scene of crime was inspected by the crime team. The crime team also collected chance prints. When IO interrogated the neighbor Meghnath Shah S/O Shiv Poojan Shah he told that at about 2100Hrs on 03/2/18 he saw a stout man sitting with the deceased Ram Asree and both were drinking. Ram Asree introduced that man by name of Kamrudin to Meghnath Shah.

During investigation Vimal Shah and Nand Kishore confirmed that on 03/2/18 they talked to Kamrudin through the phone of Ram Asree. Nand Kishore also stated that Kamrudin told him that he is sitting with uncle Ram Asree and told him that he would soon return the amount of Rs 10000/- which Kamrudin borrowed from some body on the guarantee of Nand Kishore.

2. **Arrest & Disclosure:** The accused was arrested from Bus stand of NH-24 of Samaspur Village at the instance of Vimal Shah and Nand Kishore Shah who were known to the victim and accused both. He was sitting in the auto No. DL1NCR0844. At the time of arrest he was wearing grey coloured shirt. While



checking the blood type stains found on both arms on this shirt. In his disclosure the accused stated that on 03/2/18 he went to deceased Ram Asree on his call. They both consumed the liquor. Then he asked for Rs 20000/- from Ram Asre but he denied so he slit the throat of the deceased Ram Asre with the vegetable cutting knife and escaped with the purse and mobile of the deceased Ram Asre. The accused found Rs 3470/- in the purse of the deceased. When accused was arrested Rs. 2470 were recovered from him. The mobile of the deceased was also recovered from the accused at the time of arrest. The wallet of the deceased was recovered on 07/2/18 during PC remand on the instance of the accused/petitioner.

3. **Motive of murder:** The applicant asked for Rs 20000/- from Ram Asre but he denied so he slit the throat of the deceased Ram Asre with the vegetable cutting knife and escaped with the purse and mobile of the deceased Ram Asre.

4. **Recovery:** The following items of the deceased recovered from the ~ possession of the petitioner :_

- i. Wallet
- ii. Mobile Phone
- iii. Cash Rs. 2470

5. **Result of Chance Prints:** The chance prints taken by crime team from S.O.C matched with the thumb of right hand of the accused.

6. **Opinion of Dr.:** The Dr. opined that cause of death is shock and haemorrhagic shock due to cut throat injuries and sufficient to cause death in ordinary course of nature. All injuries were ante mortem in nature" and fresh in duration.

7. **CDR Analysis Result** : On analysis of the CDR results of mobile No. 9990723610, 9911044686 of accused Kamaruddin received from Vimal Shah and Nand Kishore respectively and CDR result of Mobile No. 9958161429 of Ram Asre, it is found that up to 2100Hrs Kamruddin was available at 13 Blk Trilokpuri and from 1900 Hrs. to 2100 Hrs. he talked to Vimal Shah, Nand



Kishore and Ram Asre with his phone. Then, his both phones found switched off.

8. **Examination of Prosecution Witnesses:** Total 32 witnesses are site by the prosecution out of which total 16 witnesses are already examined. All have been supported the prosecution. The copy of examination of witnesses are attached.

i. PW4: Meghnath Shah S/O Shiv Pujan Shah Age 29 years. He correctly identified the accused Kamruddin and stated that he is the same person who was consuming liquor with the deceased Ram Asre on that day.

ii. PW2: Kartar Singh S/O Chhotu Ram Age: 60 Years

iii. Dr. S Lal HOD, Department of Forensic Medicine LBS Hospital Delhi.

iv. PW8: Vimal Shah S/O Lt Vindehwari Shah Age: 36 Years. He verified that he facilitated Kamruddin to borrow Rs. 20,000/- from Jaswant Singh. He also verified that Nand Kishore facilitated Kamruddin to borrow Rs 10,000/- from some unknown person.

v. PW7: Brij Mohan @ Sahab Ji S/O Lt. Shivpal R/o L-5 Laxmanpuri, Nabi Karim, Paharganj Delhi. He verified that he is the owner of TSR DL1NCR 0844 which Kamrrudin was driving when he was arrested. The TSR was rented to Kamruddin by Narender one of the friends of Brij Mohan on 06/2/18.

vi. PW9: Ct Rajender No. 1458/SHD Mobile Crime Team Shahdara Distric Delhi.

vii. PW1: Abhishek Kumar S/O Ram Ashre Age: 21 Years.

9. **FSL Result:** DNA profile generated from the gauge cloth piece of deceased found similar with DNA profile generated from the clothes of deceased, Knife, Dari, Bed Sheet, Matters, Blanket, Pillow and shirt of accused/petitioner i.e. the blood stains found on the shirt



of accused were of the deceased Ram Ashre. The copy is attached.

The earlier bail application no 3502/2023 was dismissed as withdrawn by the Hon'ble High Court of Delhi on 15/12/2023.

The present case is at prosecution evidence and the next date of hearing is 21/10/2024. Hence, it is humbly requested to the Hon'ble court that the present bail application is strongly opposed and may kindly be dismissed.

The undersigned is ready to abide by all the directions pass by the Hon'ble High Court.”

4. Learned counsel appearing on behalf of the applicant submits that the latter has been falsely implicated in the present case. It is further pointed out that the prosecution case is based on circumstantial evidence. Attention of this Court has been drawn to the statement of PW-4 namely Meghnath Shah, who submits that he had seen the applicant on 04.02.2018 at the police station where he identified him as the person, who was seen last with the deceased. It is the case of the applicant that the arrest of the applicant in the present case has been shown on 06.02.2018 and, therefore, it is submitted that the evidence has been planted upon him. Learned counsel for the applicant further submits that as per PW-8 namely Vimal Shah, he had given a call to the deceased at about 8.43 P.M. and the latter had informed him that the applicant was not present with him at that point of time.

5. *Per contra*, learned APP for the State submits that the circumstantial evidence including the Chance Print as well as the DNA generated from the shirt of the deceased clearly point towards the guilt of the accused. It is further submitted that the other witnesses including PW-4 clearly points out that the present applicant was last seen with the deceased.



6. Heard learned counsel for the parties and perused the records.
7. The present case is based on circumstantial evidence. PW-4 Meghnath Shah has deposed in the Court to the extent that he had seen the applicant with the deceased on the night of 03.02.2018. It is pertinent to note that the body of the deceased was recovered on 04.02.2018 in the morning by his son. PW-10 Nand Kishore has also deposed to the effect that on 03.02.2018 at about 09.07 P.M. he received a call from the present applicant and it was informed to him that he was sitting with the deceased and that he would return money to the said witness very soon. It is pertinent to note that PW-10 in his statement has clearly stated that he had received a call from the applicant at about 9.07 P.M., which was post the call made by PW-8. The Chance Print lifted from the scene of crime is also being matched with the specimen of the present applicant.
8. In the circumstances, the present application is dismissed and disposed of.
9. The learned Trial Court is requested to expedite the trial and complete the same without giving any undue adjournment to either of the parties.
10. Needless to state that all the observations made in this order are to satisfy this Court whether a *prima facie* case for bail is made out or not *qua* the present applicant. Nothing mentioned hereinabove is an opinion on the merits of the case of the applicant and the observations made herein are for the purpose of present application.
11. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.



13. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

JANUARY 9, 2025/nk

Click here to check corrigendum, if any