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

+ **BAIL APPLN. 3579/2024**

INDERJEET @SHYAM

.....Petitioner

Through: Ms. Damanjit Kaur, Advocate *via*
video-conferencing.

versus

STATE (NCT OF DELHI) THROUGH S.H.O, P.S. SHAKARPUR

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State with Insp. Kamal Kishore,
SHO/Shakarpur.
Mr. Mohity Chaurasia and Ms.
Navjot Kaur, Advocates for victim.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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17.01.2025

CRL.M.A. 29948/2024

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

BAIL APPLN. 3579/2024

By way of the present petition filed under section 483 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No. 124/2019 dated 18.05.2019 registered under section 365 of the Indian Penal Code, 1860 ('IPC') at P.S.: Shakarpur, Delhi. Consequent upon completion



of investigation, offences under sections 302/364-A/201/34 IPC have been added *vide* chargesheet dated 10.09.2019.

2. Notice on this petition was issued on 04.10.2024. Status report dated 22.11.2024 has been filed by the State. Nominal Roll dated 13.01.2025 has also been received from the concerned Jail Superintendent
3. Ms. Damanjit Kaur, learned counsel for the petitioner submits, that the essence of the allegation against the petitioner is, that he alongwith co-accused/Ankit Kumar, held the deceased/Chandan for purposes of ransom between 15.05.2019 and 18.05.2019 and then committed his murder by strangulating him with a rope; and subsequently disposed-off his body by stuffing it into a gunny bag and dumping and burning the gunny bag.
4. Ms. Kaur submits that the petitioner is being sought to be connected with the crime based on the allegation that he was 'last seen' with the deceased by PW-1/Seema, who is the prosecution's prime witness. It is pointed-out however, that in the course of her deposition recorded before the learned trial court on 31.03.2023, she has disclaimed all knowledge of the incident; and has in fact said that she was not present in the building when the incident occurred since she had gone to her village to attend a marriage. PW-1 has further said that she learned about the murder from the police. It is accordingly submitted that PW-1 has turned hostile.
5. Furthermore, Ms. Kaur argues, that another public witness PW-6/Mahender Singh, who is supposedly an MTS worker at DSIDC at Lajpat Nagar and was working at a wine shop, has also blankly stated



that he does not know anything about the case; and has specifically denied that on 21.05.2019 he retrieved the CCTV footage of the camera installed at the wine shop and handed it over to the Investigating Officer. Further, PW-6 has also denied the suggestion that he had seen the CCTV footage in which 02 boys were seen going on a Scooty on 18.05.2019 at about 03:00 a.m. Accordingly, it is argued that PW-6 has also turned hostile.

6. Attention is also drawn by counsel to the statement of yet another public witness PW-7/Ankur Khosla, who has yet again turned hostile by stating in his court deposition that he could neither identify the Scooty nor the persons riding it.
7. Ms. Kaur also argues that PW-5/Ranjeet Singh, who is stated to be a tea vendor near the place of the incident, has also failed to identify the petitioner as the person who was brought by the I.O. to his shop.
8. In the circumstances, it is argued, that neither the 'last seen' evidence cited by the prosecution against the petitioner, nor the petitioner's identity as the person concerned with the offence, has been supported by the prosecution witnesses examined in the course of trial so far.
9. Furthermore, counsel argues, that though the allegation against the petitioner is that he and the co-accused person had murdered the deceased by strangulating him with a rope, in his testimony recorded on 25.04.2024, PW-4/Dr. Jitender Pal Singh, who had conducted the post-mortem has said that the cause of death could not be ascertained since the body was decomposed; and that as per the post-mortem report the sutures of the skull were open and in his opinion therefore "... ..the cause of death may be head injury." Counsel accordingly



argues, that even the cause of death as claimed by the prosecution, namely death by strangulation, is doubtful.

10. Furthermore, counsel submits, that though the I.O. narrates in the charge-sheet, that as per their disclosure statements the accused persons had stuffed the body of the deceased in a gunny bag; had thrown the bag in the ruins; and had then set the gunny bag on fire, there is nothing on record to show that the body was burnt; and the post mortem doctor only says that the body was in a “... ..*decomposed condition*”. It is pointed-out that in fact the sister of the deceased, PW-3/Kavita Jha, has denied that anybody ever told her that the body of her brother was found in burnt condition.
11. Ms. Kaur also argues that based on the petitioner’s alleged disclosure statement, the chargesheet records the presence of another person, namely a girl at the alleged party to which the petitioner and his co-accused had invited the deceased; but no investigation has been conducted in relation to who that girl was, which is also another reason to doubt the ‘last seen’ evidence cited by the prosecution against the petitioner.
12. In this backdrop, Ms. Kaur submits, the petitioner has suffered judicial custody for more than 05½ years; that his jail conduct has been ‘satisfactory’; and though he is also implicated in another criminal case under section 379/411 IPC, he is already on bail in that case.
13. On the other hand, Mr. Tarang Srivastava, learned APP appearing for the State has opposed the grant of bail, submitting that there are 04 other material public witnesses yet to be examined before the learned



trial court; that the petitioner's co-accused/Ankit Kumar is absconding and has been declared 'proclaimed offender'; and if the petitioner is enlarged on regular bail, he may influence the other public witnesses or may even flee from justice.

14. Learned APP has also sought to place reliance on the statement of some of the other witnesses, submitting that the CDRs of the petitioner and the co-accused show their presence at the time and place when a sum of Rs. 1.6 lacs was withdrawn from the bank account of the deceased through an ATM machine, as well as at the spot where the car of the deceased was recovered. Learned APP submits that the CCTV footage collected from the ATM machine shows the petitioner alongwith co-accused on a Scooty, drawing money from the bank account of the deceased.
15. Learned APP further submits that the period of incarceration alone cannot be the criterion for release of the petitioner on regular bail in the present case. Upon being queried, Mr. Srivastava submits that 09 out of 40 prosecution witnesses have so far been examined and the prosecution would make efforts to conclude the trial expeditiously.
16. The court has also heard Mr. Mohit Chaurasia, learned counsel appearing for the complainant/next-of-kin of the deceased, who has adopted the submissions made by the learned APP. Mr. Chaurasia adds that since co-accused/Ankit is absconding, if the petitioner is also enlarged on bail, they would together intimidate witnesses and flee from justice.



17. Upon an overall conspectus of the facts and circumstances of the case, the considerations that weigh with the court at this stage are the following :
- 17.1. The prosecution has sought to connect the petitioner with the crime through the 'last seen' evidence of PW-1/Seema, who has clearly turned hostile in the course of her deposition before the learned trial court;
- 17.2. Furthermore, 03 other prosecution witnesses - PW-6/Mahender Singh (who was the employee of a wine shop from which CCTV footage was allegedly collected), PW-5/Ranjeet Singh (the tea vendor before whom the petitioner was taken) and PW 7/Ankur Khosla (who is the owner of the Scooty allegedly involved in the case) who were cited to identify the petitioner - have all turned hostile in the course of their depositions before the learned trial court;
- 17.3. The doctor who conducted the post-mortem has said that it was not possible to ascertain the cause of death since the body was decomposed; and since the sutures of the skull were found open, the cause of death may have been head injury (and not strangulation by a rope as alleged by the prosecution). Accordingly, the cause of death and the manner in which the petitioner is alleged to have murdered the deceased also remain to be proved, as of now.
- 17.4. It also remains to be seen as to why, if the prosecution alleges that the petitioner and his co-accused had stuffed the body of



the deceased in a gunny bag and had set it on fire, does the body not appear to show any burn marks; and

17.5. Lastly, only 09 out of 40 prosecution witnesses cited in the case have so far been examined; but in the meantime, the petitioner has suffered judicial custody of more than 05½ years as an undertrial, whereas the conclusion of the trial is evidently nowhere in sight.

18. As a sequitur to the aforesaid circumstances, this court is persuaded to admit the petitioner – **Inderjeet @ Shyam s/o Rama Nandan Pandey** – to *regular bail* subject to the following conditions :

18.1. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

18.2. The petitioner shall furnish to the Investigating Officer/S.H.O a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

18.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;

18.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise



indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and

18.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.

19. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
20. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
21. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
22. The petition stands disposed-of.
23. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 17, 2025

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