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

+ **BAIL APPLN. 3939/2024 & CRL.M.A. 32557/2024**

CHIRAG

.....Petitioner

Through: Mr. Suraj Prakash, Advocate.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

12.03.2025

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1. By way of present application, the applicant is seeking grant of regular bail in case arising out of FIR No. 430/2016, registered at Police Station Tilak Nagar, Delhi for the offences punishable under Sections 302/34 of Indian Penal Code, 1860 (hereafter '*IPC*').

2. Briefly stated, facts of the present case are that on 27.04.2016, on receipt of DD no.22, the police officials had reached the spot of incident, where they were informed that the injured had already been taken to some unknown hospital by the PCR van. Thereafter, on receipt of DD no.27 from DDU Hospital, some of the police officials had rushed there and obtained MLC no. 3441/16 of deceased Yogesh@Raju, who had been declared "brought dead". The complainant/Jyoti, i.e., sister of the deceased, got her statement recorded at the hospital, wherein she stated that while she was walking with her sister near a park at about 08:00 PM, a boy who works as a



scrap dealer, had informed her that her brother, the deceased, was lying unconscious near the CRPF camp. Upon reaching the said spot, she had found her brother lying unconscious, bleeding profusely. Meanwhile, a PCR van had arrived and taken her brother to the hospital, where the doctor had declared him brought dead. Accordingly, the present FIR under Sections 302/34 of IPC was registered. During investigation, statement of eyewitness Ravi Bhalla was recorded wherein he revealed that he had seen 3 boys beating up one boy and stabbing him multiple times. On further investigation, statements of additional eyewitnesses, Sunny and Anil were also recorded, who happened to be the deceased's friends. They too, revealed that the accused persons were threatening the deceased Yogesh @ Raju. Eventually, a quarrel had broken out between them and the accused persons chased Anil, Sunny and Yogesh with a knife and stabbed Yogesh. Consequently, Anil and Sunny fled from the scene. After completion of investigation, chargesheet was filed by the police.

3. The learned counsel appearing for the applicant states that the applicant has been in jail for about 08 years now and since the police has completed the investigation and filed the charge sheet, his continued incarceration is not required. He further submits that there are a total of 30 prosecution witnesses out of which only 18 have been examined till now. Moreover, it is argued that bail should be granted to the applicant on the ground of parity as co-accused Rajan has already been granted bail. Therefore, it is prayed that the applicant, who has been falsely implicated in this case, be granted regular bail.

4. The learned APP for the state vehemently opposes the grant of bail in the instant case and argues that the CCTV footage seized from near the place



of the incident has clearly captured the accused/applicant beating up the deceased. He further submits that eyewitness Ravi Bhalla has correctly identified the accused/applicant before the learned Trial Court as the dark-complexioned boy who had stabbed the deceased on his neck and body. It is contended that the doctor who conducted the post-mortem report has opined that the injuries on the body of the deceased could have been inflicted by weapon in question, which was recovered at applicant's instance. The learned APP also submits that as per the FSL report, the blood on the clothes of the applicant has been found to match with the blood of the deceased. Therefore, on these grounds, it is prayed that the present bail application be dismissed.

5. This Court has heard arguments addressed by the learned counsel appearing for either side and has also perused the material available on record.

6. The allegations against the present applicant/accused in a nutshell are that he, along with his co-accused persons, had threatened the victim and pursuant to that, physically assaulted him and stabbed him with a knife multiple times on his neck and body, before fleeing the spot.

7. This Court's attention has been drawn to the post-mortem report of the deceased which clearly reflects the manner in which the applicant, alongwith co-accused persons, had allegedly murdered the deceased by causing him multiple injuries. As per post-mortem report, the cause of death is due to hemorrhagic shock as a result of cutting of large blood vessel of neck by stabbing by using a sharp weapon like a knife, etc. Moreover, the doctor who conducted the post-mortem, has also opined that the injuries on the body of the deceased could have been inflicted by the alleged weapon of



commission of offence. It is also apposite to note that the said weapon of offence i.e., knife was recovered at the instance of present applicant.

8. Further, according to the FSL report, the blood on the clothes of the applicant has been found to match with the blood of the deceased.

9. This Court notes that the out 30 prosecution witnesses, 18 have already been examined so far, and all material witnesses have supported the case of the prosecution. Furthermore, it is noted that the CCTV footage has clearly captured the present applicant/accused beating up the victim and hiding their faces with the help of helmets in order to not get identified.

10. Since the present case involves commission of offence under Section 302 of IPC, it shall be apposite to take note of the decision of Hon'ble Supreme Court in *Vijay Kumar v. Narendra & Ors.*: (2002) 9 SCC 364, wherein the factors to be taken into consideration while adjudicating a bail application were discussed. The relevant extract of the decision is set out below:

"10. ...The principle is well settled that in considering the prayer for bail in a case involving serious offences like murder, punishable under Section 302 IPC, the court should consider the relevant factors like the nature of the accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after the have been convicted for committing the serious offence of murder...".

11. In *X v. State of Rajasthan & anr*: SLP (Crl) No. 13378/2024, the Hon'ble Supreme Court observed that ordinarily, once the trial commences and prosecution starts examining witnesses, the Court should be loath in granting bail to accused persons in serious offences like rape, murder, dacoity, etc.

12. In this regard, this Court is of the opinion that the evidence on record



is sufficient to prima facie reflect the involvement of the present applicant in the commission of alleged offence.

13. There is previous involvement also of the applicant in two other FIRs in the year 2021 i.e., when he was released as per HPC guidelines during Covid-19 pandemic. Therefore, this Court is not inclined to grant regular bail to the applicant at this stage.

14. However, considering the fact that the present case pertains to the year 2016, the learned Trial Court is directed to expedite the recording of evidence and endeavour to conclude the trial within six (06) months from receipt of this order

15. Accordingly, the present bail application along with pending application stands dismissed.

16. Copy of this order be forwarded to the concerned Trial Court for information and compliance.

17. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 12, 2025/vc

Click here to check corrigendum, if any