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

+ **BAIL APPLN. 4355/2024**

UDAYVEER SINGH

.....Applicant

Through: Mr. Deepanshu Goswami,
Mr. Rohit Sahrawat and
Ms. Kirti Chauhan,
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal,
APP for the State with Ms.
Mansi Sharma, Advocate,
Insp. Ravinder Kumar, PS
KNK Marg and SI Bunty.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

24.03.2025

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1. The present application is filed seeking regular bail in FIR No. 1225/2015, dated 20.11.2015, registered at Police Station Katju Marg for offence under Section 365 of the Indian Penal Code, 1860 ('IPC').
2. Chargesheet in the present case has been filed under Sections 364/365/302/201/120B of the IPC.
3. The brief facts of the case are that on 26.08.2015, the complainant lodged a missing report of his father Virender (the victim). During the course of investigation, the bank account details of the missing victim were obtained and the CCTV footage of the ATM revealed that one person namely Chandersen had withdrawn money from the account of the victim. On being interrogated, Chandersen disclosed that he had withdrawn money



on instructions of the applicant. It is alleged that the briefcase of the victim was found in the house of the applicant. During the course of the investigation, the applicant was arrested on 20.12.2015. Further, on the instance of the applicant, a human skull was recovered from Mau, Chandpur. Thereafter, it was also found that one FIR 84/2015 dated 08.07.2015 was registered at Police Station Visharat Ganj, Bareilly, Uttar Pradesh in regard to a dead body which was found without head.

4. During the course of investigation, the CDR and locations of the applicant and co-accused Rajender Yadav were analysed. Upon such analysis, it was found that the applicant was present at the spot on the day of the incident from where the parts of the dead body were recovered. Further, the bank details of the victim were also examined, and it transpired that a sum of ₹2.5 lakhs had been withdrawn from the victim's account in three days.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant has been languishing in custody for last more than 7 years, and the trial is not likely to conclude in the near future. He submits that certain witnesses still remain to be examined, and prays that the applicant be enlarged on bail on account of the delay in trial.

6. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature. He submits that at the instance of the applicant, the skull of the victim was recovered from Mau, Chandpur, UP. He submits that during the course of investigation, the CDR connectivity of the applicant was



obtained, and the same revealed that the applicant was present at the spot during the commission of crime. He further submits that in accordance with the statement of one witness Sanjay Munjhal, the victim was last seen with the applicant and the co-accused Rajender Yadav.

7. The Hon'ble Apex Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

8. In the present case, the applicant is alleged to have been involved in the commission of the murder of the victim. The applicant had been working as a driver of the missing victim from the last 1½ years. During the course of interrogation, the applicant disclosed that he along with the other co-accused persons had murdered the missing victim and had decapitated the body of the victim in two parts. It is pertinent to note that the disclosure made by the applicant also led to the recovery of a human skull from Mau, Chandpur, Uttar Pradesh. Further, during the course of the investigation, it was found that one FIR 84/2015 dated 08.07.2015 was registered at Police Station Visharat Ganj, Bareilly, Uttar Pradesh in regard to a dead body which was found without a head.

9. It is also pertinent to mention that during the course of the investigation, the CDR and locations of the applicant and co-accused Rajender Yadav were analysed. The CDR analysis of the



applicant revealed the location of the applicant and the co-accused person at Moradabad, Uttar Pradesh, and the same was found to be at the spot from where the parts of the dead body recovered.

10. Further, the analysis of the bank account of the victim materialised that an amount of ₹2,50,000/- had been withdrawn from the victim's bank in 03 days, and the CCTV footage had shown one person namely Chandersen withdrawing the amount. The FSL report of the body further materialised that the DNA from the missing body parts matched with that of the family members of the victim. Additionally, the statement of another witness namely Sanjay Munjal was recorded under Section 161 of Code of Criminal Procedure, 1973 who revealed that he had met the victim along with the applicant.

11. It is evident that the grant of bail should not be arbitrary or whimsical. The Hon'ble Apex Court in ***Neeru Yadav v. State of U.P. : (2014) 16 SCC 508***, where the Court, while setting aside the bail order, made the following observation:

"16. The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that liberty is a priceless treasure for a human being. It is founded on the bedrock of the constitutional right and accentuated further on the human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilised society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilised. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to the rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. Society by its collective wisdom through process of law can withdraw the



liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law.”

12. 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 severity of the crime, and the accused’s likelihood to tamper with evidence, among other considerations.

13. It is pointed out that the applicant has been in custody for more than 7 years 8 months. It is trite that long period of incarceration is a factor to be considered while deciding the question of bail. The Hon’ble Apex Court in the case of ***Union of India v. K.A. Najeeb : AIR 2021 SC 712***, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

14. However, in the opinion of this Court, long period of incarceration alone cannot be a single factor for grant of bail especially when the evidence collected at this stage overwhelmingly points towards the guilt of the accused. The applicant is stated to have been employed by the victim at the time of incident. The applicant is also alleged to have murdered the victim and chopped his body in two parts. The applicant is



charged for an offence under Section 302 of the IPC wherein the minimum punishment is imprisonment for life. For this reason, even though there has been a long period of incarceration, yet the same cannot be the only reason to grant bail to the applicant at this stage.

15. 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. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence and its impact on society.

16. Accordingly, taking into account the submissions made by the learned counsel for the parties, 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.

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

18. The learned Trial Court is directed to expedite the trial and conclude the examination of witnesses to ensure that justice is served in a timely manner.

19. 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.

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

AMIT MAHAJAN, J

MARCH 24, 2025/DU