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

+ **BAIL APPLN. 4646/2024 & CRL.M.A. 37990/2024, CRL.M.A. 37991/2024**

MEGHARAJ@MANISH

.....Petitioner

Through: Ms. Dolly Sharma, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP.

Insp. Ritesh Raj, PS: Raj Park.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.01.2025

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1. This is the second bail application, filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (Section 439 of the Criminal Procedure Code, 1973²) read with Section 528 of BNSS (Section 482 of CrPC), seeking grant of regular bail in FIR No. 763/2021 dated 24th December, 2021, filed under Section 302 of the Indian Penal Code, 1860³, registered at P.S. Raj Park. Subsequently, chargesheet has been filed on 17th March, 2022, for offences under Sections 302 and 34 of IPC.

2. The Applicant's first bail application, *i.e.*, Bail Appln. 2485/2024, was dismissed as withdrawn, *vide* order dated 30th July, 2024. The said order reads as follows:

"CRL.M.A. 22152/2024 (u/S 482 of Cr.P.C., 1973)

1. By way of present application, the applicant/petitioner seeks early hearing of the bail petition.

¹ "BNSS"

² "CrPC"

³ "IPC"



2. *Issue notice.*

3. *Ms. Richa Dhawan, learned Additional Public Prosecutor appearing on advance notice, accepts notice on behalf of the State and has no objection if the present application is allowed.*

4. *In view of the submission made, the present application is allowed and disposed.*

BAIL APPLN. 2485/2024 (u/S 439 r/w Section 482 of Cr.P.C., 1973)

5. *After some arguments, counsel for the petitioner seeks permission to withdraw the present petition.*

6. *In view of the submissions made, the present petition is dismissed as withdrawn along with pending application, if any.*

7. *The next date of hearing i.e., 07.10.2024 stands cancelled.”*

3. Since then, there has been no change in circumstances, except for the fact that the Prosecution evidence has advanced. Nonetheless, Ms. Dolly Sharma, counsel for the Applicant, states that the counsel previously representing the Applicant, namely Mr. Rohit Singh and Mr. Vikram Singh, had no instructions to withdraw the first bail application. However, the Court finds that no complaint has been filed by the Applicant against the aforesaid counsel, despite making allegations against them in the present application. The Court deprecates this practice of a counsel making allegations against a former counsel, without any reasonable basis.

4. Nonetheless, the Court has proceeded to consider the present bail application, on the basis of submissions of the parties. Briefly stated, the case of the Prosecution is as follows:

4.1. A PCR call was received at P.S. Raj Park *vide* DD No. 106A dated 23rd December, 2021, by which the police were informed that a person with stab wounds was lying in front of Jhuggi No. F-6/163, HGI, Labor Colony, Sultanpuri. The call was assigned to SI Narender Singh. Upon reaching the scene of crime, the SI noted that the injured person had already been taken to Sanjay Gandhi Hospital, Mangolpuri, by a PCR Van. The injured person was identified as one Deepak, son of Umesh Singh, who was later declared



dead while receiving treatment.

4.2. As per the MLC bearing No. 28241/21, the deceased had received several stab wounds on his chest and back. Thereafter, upon inspection, the following exhibits were seized from the spot:- (1) Blood in street, (2) a pair of shoes, in which one shoe had blood and (3) Motorcycle/Bike bearing No. DL-3S-CX-2051, with a helmet on its handle. No eyewitnesses came forward during the enquiry, and therefore, the FIR was registered based on the MLC and the crime scene.

4.3. During investigation, on the basis of CCTV footage and information received from the secret informers deployed at the crime scene, co-accused CCL,⁴ 'S', son of 'S', was apprehended on 24th December, 2021. Separate proceedings were initiated against him under the Juvenile Justice Act, 2015.⁵

4.4. During his interrogation, CCL admitted that he knew the deceased from before and that the deceased had lent him INR 1500/-. Since the CCL could not return the said amount, the deceased used to mock CCL in front of his friends, making him feel humiliated. As a result, CCL wanted to teach the deceased a lesson and started keeping a knife on him.

4.5. On 23rd December, 2021, CCL, along with the Applicant, was going towards the Applicant's home. While they were on their way, the deceased stopped them and demanded the amount loaned to CCL, however CCL refused to return the same. This agitated the deceased, and he grabbed CCL by the neck. In retaliation, CCL stabbed the deceased. The CCTV footage shows the CCL assaulting the deceased against the wall, with the Applicant supporting the CCL. Furthermore, as per the footage, when the deceased tried to run away, the Applicant followed him and attempted to stop him.

⁴ Short for - a child in conflict with the law

⁵ "JJ Act"



After committing the offence, the CCL, along with the Applicant, escaped from the crime scene, with the Applicant riding the bike.

4.6. On further investigation, the weapon of offence, *i.e.*, the blood-stained knife was recovered at the instance of CCL, while the bike used in the commission of the offence was recovered from the Applicant. Thereafter, CCL was produced before the Juvenile Justice Board⁶ and sent to Observation Home on 24th December, 2021.

4.7 The Post Mortem Report bearing No. 1193/21, indicates that the deceased had gotten 6 stab wounds and other injuries. With respect to the cause of death, an autopsy surgeon opined that the *“Injury is sufficient to cause death in ordinary course of nature and caused by sharp, single edged weapon”*.

5. Against this backdrop, counsel for the Applicant makes the following submissions:

5.1. The Applicant has been falsely implicated in the present matter. As per the Nominal Roll dated 15th January, 2025, he has already undergone a custody period of more than 3 years. Furthermore, the investigation *qua* the Applicant is complete and the chargesheet stands filed. The trial is moving at an extremely slow pace, with several PWs yet to be examined.

5.2 The Applicant is not the owner of the bike recovered from him. The Applicant is not named in the FIR, and has solely been arrested on the basis of CCL’s disclosure statement under Section 161 of CrPC. Apart from that, there is no material on record that establishes any link between the Applicant and the alleged offence.

5.3. As such, the Prosecution has failed to demonstrate any motive on part of the Applicant towards the commission of the alleged offence. There exists



no connection between the Applicant and the deceased. As per the Prosecution, there was a dispute between the CCL and the deceased, stemming from a transaction of INR 1,500/-. However, there is no connection between the Applicant and the deceased. Pertinently, even the chargesheet does not outline specific allegations *qua* the Applicant, and his role, appears to be limited to holding the friend of the deceased.

5.4. In the CCTV footage, the person whom the Prosecution has sought to identify as the Applicant, can be seen trying to stop the scuffle between CCL and the deceased, thereby attempting to protect the deceased. However, as a result of poor lighting, the CCTV footage fails to reveal the identity of any person, and is therefore, unreliable.

5.5. PW-6, the alleged eye witness, as well as PW-3 and PW-8, have not supported the case of the Prosecution, and have not deposed anything incriminating against the Applicant. Several material prosecution witnesses have been examined, but none of them have identified Applicant.

6. On the other hand, Mr. Amit Ahlawat, APP for State, strongly opposes the bail application and submits as follows:

6.1. The Applicant has committed a heinous offence and hence, has been charged under Section 302 and 34 of IPC. CCL 'S' has already been convicted in the present case. Furthermore, the motorcycle used in the commission of the offence, has been recovered from the Applicant.

6.2. As of yet, only 10 out of the 41 witnesses have deposed before the Trial Court, and testimonies of several important public witnesses are still pending. Given the heinous nature of the alleged offence, granting bail to the Applicant at this stage of the trial, when several crucial witnesses are yet to be examined, poses a significant risk of potential tampering with evidence or

⁶ "JJB"



intimidation of witnesses.

7. The Court has considered the contentions of the Applicant, but remains unpersuaded. The chargesheet provides a thorough analysis of the CCTV footage, indicating the involvement of the parties. The footage allegedly shows that the CCL and the Applicant were seen near the crime scene on a motorcycle/bike (bearing No. DL-3S-CX-2051) at 10:05 PM on the date of the incident. In the footage, the Applicant has been identified to be the driver of the bike, while the CCL 'S' was riding pillion. Around 10:08 PM, the deceased, the Applicant and CCL assembled together, with the deceased's friend joining them shortly after. Thereafter, the deceased was taken towards a dark place, where a scuffle broke out. In the scuffle, the Applicant's actions allegedly seem to be supportive of CCL. At around 10:17 PM, the deceased was seen running towards an empty plot, with the Applicant attempting to stop him, and CCL following them brandishing a knife. About a minute later, CCL and the Applicant are seen leaving on the latter's bike. The footage also confirms the presence of a few witnesses, who have been attached as PWs before the Trial Court.

8. In the present case, the Applicant has primarily sought to rely on the alleged discrepancies regarding his involvement in the incident, as depicted in the CCTV footage, and the purported lack of corroboration from the testimonies of public witnesses. The Applicant has contended that he is seen protecting the deceased in the CCTV footage, whereas the Prosecution maintains that his actions were aligned with those of the CCL. Additionally, the Applicant asserts that several public witnesses have either not supported the Prosecution's case, or failed to correctly identify him. Based on these factors, the Applicant has contended that the Prosecution's case is not credible, and as such, there is a *prima facie* case in his favour.



9. At this juncture, it would be apposite to refer to the judgement of the Supreme Court in *X v. State of Rajasthan & Anr.*,⁷ whereby the Court has made the following observations with respect to grant of bail in cases involving serious offenses:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

[Emphasis Supplied]

10. No doubt, a few public witnesses have turned hostile and have not supported the case of the Prosecution, however, as noted by the APP, several public witnesses are yet to be examined. Granting bail to the Applicant at this stage could therefore pose a risk of tampering with evidence or witness intimidation. Additionally, notwithstanding the discrepancies in the testimonies of the witnesses, the offence may still be established through circumstantial evidence, such as CCTV footage as well as the recovery of the bike from the instance of the Applicant.

⁷ SLP(Cr.) No. 13378/2024, decided on 27th November, 2024.



11. Moreover, it has been consistently held by the Supreme Court that minor discrepancies or inconsistencies in the testimony of a witness, unless they are material and strike at the root of the case, cannot form the sole basis for granting bail, especially in cases involving heinous offences. In the present case, the Applicant has been arrested for the offence of murder, and the Court is not inclined to grant him bail merely on account of purported discrepancies in the testimonies of certain witnesses. These contradictions, pointed out by the Applicant, can be better assessed during the final adjudication of this case. The settled principle of law is that such issues must be scrutinized comprehensively at trial and not at the stage of bail, where the inquiry is limited to determining *prima facie* involvement.

12. Furthermore, a report dated 17th January, 2025 has been received from the Trial Court, which reveals that the matter is next fixed for Prosecution evidence on 18th February, 2025. Out of a total of 39 witnesses, 10 have been examined and 2 witnesses have been dropped. Therefore, in view of the aforementioned judgment of the Supreme Court, it is essential that the trial be allowed to reach its conclusion, in order to accurately ascertain the culpability of the Applicant in light of the testimonies of the witnesses and the evidence on record.

13. In view of the aforesaid facts and circumstances, the gravity of the offence, and *prima facie* the revelations made in the CCTV footage, the Court does not find it a fit case for grant of bail.

14. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and shall not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.



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

JANUARY 30, 2025/d.negi

SANJEEV NARULA, J