



2024 : DHC : 3861



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

% *Date of Decision: 10th May, 2024*

+ **BAIL APPLN. 6/2024**

PRINCE @ DAULAT Applicant

Through: Mr. Vineet Jain, Adv.

versus

STATE GNCT OF DELHI Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State along
with Adv. Diksha Saraf,
Adv. Pragati Sharma &
Adv. Ashima Rani.
Insp. Hiral Lal, PS Nihal
Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN (Oral)

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') for grant of regular bail in FIR No. 586/2018, for offences under 302/34 Indian Penal Code, 1860 ('IPC') r/w Section 25/27/54/59 of the Arms Act, 1959 ('Arms Act') registered at P.S. Nihal Vihar on 14.09.2018. Chargesheet has been filed against the applicant under Section 302/34 IPC r/w Section 25/27/54/59 of the Arms Act.

2. It is alleged that on 14.09.2018, information was received that someone was stabbed at G99, Dev Nath Mandir, Rajender Public School. The injured person was identified as Monu *alias*



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Mohit. MLC report No. 3063/18 stated that victim had suffered a stab injury on his right thigh and was declared brought dead at RML Hospital. The FIR registered u/s 307 of IPC was thereafter modified and Section 302 of IPC was added to the present case.

3. During investigation, it was allegedly revealed, as per the statement by the father of the deceased, that on 14.09.2018, when the victim opened the door of their house, the accused persons namely -Vijay,Kamal, Ravi Bagdi and the applicant came there. It is alleged that co-accused Vijay and the applicant stabbed the victim with knives on his thigh. It is alleged that the father of the victim tried to intervene but co-accuseds Kamal and Ravi Bagdi pulled him back and helped co-accused Vijay and the applicant flee on their motorcycles.

4. During investigation, on 14.09.2018, co-accused Vijay and Kamal were arrested. On 19.09.2018, the applicant was arrested and he pointed out the place of incident and the weapon of offence was recovered from the adjacent plot of his residence, from the scrap.

5. The bail application of the applicant was dismissed by the learned Trial Court *vide* order dated 28.02.2023, hence the present application has been filed.

6. The learned counsel for the applicant submits that the applicant has been in custody since 19.09.2018 except the period when he was released on interim bail in view of HPC guidelines and that the applicant never misused the liberty of interim bail granted to him.



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7. He submits that no role has been attributed to the present applicant for causing any alleged injury to the victim and has only been roped in the present case at the instance of belated statement of the father of the deceased.

8. He submits that there is no eyewitness and the present FIR is based solely on the statement of police official - Shankar Singh.

9. He submits that one witness of the alleged incident that has been examined by the Prosecution, PW-4 namely Sh. Ram Babu (father of the deceased), has turned hostile and categorically stated that he had not seen the applicant taking out any knife from his pocket or giving any knife blow to the deceased and that he had made any such statement to the police.

10. He submits that no cogent evidence comes out against the applicant in the chargesheet as well as in the evidence lead by the prosecution before the learned Trial Court and prosecution has failed to establish any motive to depict involvement in alleged offence against the applicant.

11. The learned Additional Public Prosecutor for the State opposed the grant of any relief to the applicant. He submits that the allegations against the accused are serious in nature. The present case is at the stage of prosecution evidence and there is stout apprehension that if released on bail, the applicant may try to influence the witnesses or tamper with the evidence.

12. I have heard the learned counsel for the parties.



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13. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

14. The applicant has been in incarceration since 19.09.2018 except the period when he was released on interim bail in view of HPC guidelines. It is not denied that the applicant never misused the liberty of interim bail granted to him.

15. It is relevant to note that though the status report states that the father of deceased in his statement stated that the applicant stabbed the deceased with a knife, the same is doubtful since, during the examination before the learned Trial Court, the father of the deceased who is the only eye witness has denied giving any statement to the police that the applicant had given any knife blow to the deceased.

16. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time as 16 witnesses are yet to be examined. In the opinion of this Court, no purpose would be served by keeping the applicant in further custody.



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17. The Hon'ble Apex Court in the case of *Union of India v. K.A. Najeeb*: AIR 2021 SC 712 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.

18. The investigation in the present case already stands concluded with the filing of chargesheet followed by framing of charges and the material witnesses have already been examined by the learned Trial Court. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

19. In view of the above, the applicant has made out a case for grant of bail and is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of Delhi without informing the concerned SHO;



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- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.

20. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present 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.

22. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 10, 2024