

**Bail application no. 130/23**

**State v. Deepak Khanna**

**FIR No. 2/23**

**PS Sultanpuri**

**u/s 297/337/304A/302/201/212/182/34/120B IPC**

**20.01.2023**

**This is the application under Section 439 Cr.P.C. for grant of bail, moved on behalf of applicant/accused Deepak Khanna.**

Present: Shri P.K. Samadhiya, Ld. Addl. PP for the State.

Ms. Manpreet Kaur, Ld. Counsel for DCW.

None for the accused/ applicant.

IO/ Inspector Rajnish Kumar in person.

IO submits that as Shri Atul Srivastava is indisposed today, Shri P.K. Samadhiya, Ld. Addl. PP for State will argue this application.

As none has appeared on behalf of applicant/ accused, passover till 11.00 am.

**(Susheel Bala Dagar)**

Additional Sessions Judge-01  
(POCSO), North West/ Rohini/  
Delhi/20.01.2023

At 11.00 am

Present: Shri P.K. Samadhiya, Ld. Addl. PP for the State.

Ms. Manpreet Kaur, Ld. Counsel for DCW.

Shri Prem V. Joshi, Ld. Counsel for the accused/ applicant.

IO/ Inspector Rajnish Kumar in person.

IO has filed reply.

Arguments on the bail application as addressed by Ld. Counsel for the applicant/ accused and Ld. Addl. PP for State heard.

I have perused the reply filed by the IO and the same appears to be vague and unspecific, hence, I have asked the Ld.

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Addl. PP for State and IO to mention point wise grounds for opposition of the bail application.

At request of Ld.Addl. PP for State, passover till 12.30 pm.

**(Susheel Bala Dagar)**  
Additional Sessions Judge-01  
(POCSO), North West/ Rohini/  
Delhi/20.01.2023

At 12.30 pm

Present As above.

Point wise grounds have been mentioned regarding the role of accused/ applicant. At request of Ld. Counsel for the applicant/ accused copy of the reply has been supplied to him.

Remaining arguments heard.

Put up for orders at 2.00 pm.

**(Susheel Bala Dagar)**  
Additional Sessions Judge-01  
(POCSO), North West/ Rohini/  
Delhi/20.01.2023

At 2.00 pm.

Present As above.

Arguments have already been heard.

It is argued by Ld. Counsel for the accused/ applicant that applicant/ accused was arrested on 01.01.2023 by the police officials of the concerned police station. The applicant / accused has clear antecedents and has not been involved in any criminal or civil litigation till date except the present FIR in question. The applicant / accused has been falsely implicated in the present case at the instance of the police

officials. The applicant/ accused is a young boy aged about 27 years, being survived only by his elder brother after the demise of his father in the year 2014 and his mother in 2021, who passed away due to kidney failure. The concerned police officials without ascertaining the veracity of facts have arrested the applicant/ accused under undue pressure from media and senior officials of Delhi police. It is submitted that the prosecution has concocted a false story to merely implicate the applicant/ accused who has nothing to do with the alleged offence. The applicant / accused had no knowledge of the alleged offence and that he has merely fallen prey to the false circumstances created by the police officials. It is alleged that in the present FIR, the applicant at the time of offence alleged to have been driving the vehicle bearing no. DL-8CAY-6414, used in the commission of the offence which is false.

It is argued that the accused/ applicant was not present alongwith the other accused on the spot. On the intervening night of 31.12.2022 and 01.01.2023 at around 3-3.30 am one Ankush Khanna approached him on the pretext of personal emergency and being his relative he went alongwith Ankush Khanna. It is argued that he was taken to residence of co-accused Ashutosh in an auto rickshaw, where he came to know about the accident. It is argued that accused Amit Khanna requested him to produce his driving licence before the police. It is argued that thereafter co-accused Ashutosh called co-accused Amit to reach his residence and subsequently four persons namely Amit, Manoj, Krishan and Mittun reached Ashutosh is residence whereby his car was returned to him. It is argued that

all persons returned to the house of applicant through auto and slept in the applicant's house. Later on police officials came to the applicant's residence alongwith co-accused Ashutosh and the accused/ applicant was taken to the police station. It is argued that accused/ applicant gave the statement that he was driving the vehicle at the time of commission of offence upon the request of accused Ankush Khanna and in view of the family relations. Ld. Counsel for the accused/ applicant has also made a reference to one press conference by Special CP.

It is further argued that GPS location, CDR and CCTV camera recordings can prove that applicant/ accused was neither driving the car nor present in the car at the time of commission of the offence. The applicant/ accused is a permanent resident of the above mentioned address and works as a driver of Gramin Seva auto owned by Anshul Khanna (relative) which is the only source of earning livelihood for himself and his family. It is submitted that two co-accused in the present FIR have already granted regular bail by the Court. It is submitted that there is no requirement of any recovery from the applicant and no fruitful purpose will be served to keep the applicant/ accused behind the bars. The applicant / accused is the sole bread earner of his family.

Ld. Addl. PP for the State has argued that the applicant/ accused has not approached before the Ld. MM for bail and filed the application before the Sessions Court directly. The investigation is at the initial stage. Section 302 IPC has already been invoked in this FIR. The applicant/ accused is made his own disclosure. The notice u/s 133 MV Act was served to the

custodial owner of vehicle, who has mentioned that accused / applicant Deepak was driving the vehicle. At that time the owner of the vehicle was not even made accused in this case. He has placed reliance on Section 10 of the Evidence Act to argue that things said or done by conspirator in reference to common design is a relevant fact as against each of the persons believed to so conspiring. Further, it is argued that in case from a mobile phone, there is no call / sms received or sent, there would be no GPS location or CDR traced out.

I have perused the investigation file and case diary and have put my initials on all pages of investigating file and case diary as a token of perusal.

Brief facts of the case are that on 31.12.2022 SHO Sultanpuri was performing night patrolling in the PS Sultanpuri area when he reached at Pooth Kalan Kanjhawala Road, ERV staff informed him regarding one scooty bearing DL-11-H-7237 was found lying in accidental condition at Sani Bazar Road, Krishan Vihar, Delhi. He reached on the spot immediately and lodged the DD entry no. 19A at PS Sultanpuri. The call was entrusted to SI Hemant and HC Amit deployed in the emergency duty. Staff reached at the spot where one scooty bearing no. DL-11-H-7237 was found in accident condition in front of E-7/D-2 Krishan Vihar, Sani Bazar, Delhi. The spot was inspected by the crime team, exhibits and scooty were taken into police possession through seizure memos.

On the other hand, SI Umesh PS Kanjhawala had also received a PCR call vide DD no. 15A dated 01.01.2023 stating that “caller ne bataya ek ladki ki nude lass padi hue hai

need help”. During inquiry PCR caller stated that the registration number of offending vehicle Baleno Car is DL-8CAY-6414. On reaching at the spot, one unknown dead body of female in almost nude condition was found lying on main Kanjhawala. Thereafter, dead body of deceased was sent to SGM Hospital, Mangolpuri, Delhi wherein the doctor declared the patient brought dead vide MLC no. 82 dated 01.01.2023 and dead body of deceased was got preserved at mortuary, SGM Hospital.

During the course of enquiry, owner of the offending vehicle stated that offending vehicle was driven by Deepak at the time of incident and all the other accused persons were accompanied with him in the offending vehicle. In reply it is alleged by the IO that all accused persons intentionally caused accident / hit to the deceased and further dragged the deceased very long distance by the offending vehicle in order to causing death of the deceased as well as for disappearance evidence of the offence with the common intention to screen from prosecution. Five accused namely Deepak Khanna, Amit Khanna, Krishan, Manoj and Mithun were arrested. During the course of investigation scientific and electronic evidences etc., is being collected.

Perusal of the reply filed by the IO showed that he has only mentioned the disclosure by co-accused Ashutosh and that is why IO was asked to mention point wise grounds of opposition of the bail. It has been submitted that during investigation co-accused Ashutosh in the reply to the notice u/s 133 MV Act submitted that accused Deepak alongwith other co-accused persons had taken the car from him on 31.12.2022 and the car was driven by

accused Deepak at the time of incident. Further in the reply accused Deepak is alleged to have also represented himself as the driver at the time of incident. Investigation in this regard is still going on. Accused Deepak is alleged to have helped in harbouring / protecting the co-accused persons with intention of screening the co-accused persons as he had given shelter to all the other co-occupants of the car in his residence. Further, it is submitted accused Deepak conspired with co-accused to mislead the investigation.

IO orally submits through Ld. Addl. PP for State that one witness namely Sahil whose statement u/s 164 Cr.PC has been recorded has stated that co-accused Amit was driving the vehicle. On inquiry, whether the alleged witness Sahil has mentioned whether accused/ applicant Deepak was present in the vehicle or not, IO submits that alleged witness Sahil has not made any mention about accused/ applicant Deepak in his statement and investigation in this regard is still going on.

The allegations against accused / applicant Deepak are grave in nature. Investigation is still in the initial stages. The accused/ applicant himself has given two versions to the investigating agency as mentioned in the bail application i.e. at the first instance, he stated that he was driving the vehicle and later on he is taking the defence that he was not driving the vehicle. Whether he was present inside the vehicle or not is yet to be investigated. The arguments of Ld. Counsel for the applicant/ accused regarding his GPS location or CDR is not tenable which seems to be his defence and the matter is still at the initial stage. It is not necessary that at all times a person would be carrying his

mobile phone with him which is still a matter of investigation. The question of presence of the accused/ applicant or whether he was not present cannot be ascertained at this stage. Accused/ applicant cannot seek parity with the other co-accused.

**Further it is pertinent to mention that the reply which has been received to this bail application today is quite evasive, vague and non specific on all grounds. It appears from the reply that the IO is not opposing the bail application. The investigating agency ought not to have such a non sensitive approach. It shocks the judicial conscious of the Court that such evasive non specific, vague grounds are being made in the reply. The approach of the investigating agency appears to be non serious. Accordingly, in case, in future any application is moved in this matter, DCP concerned to personally supervise the same and any response sent to the Court should be routed through the Office of DCP to reflect his supervision and application of mind over the investigation.**

The allegations against the accused/ applicant are grave in nature. Owing to the aforesaid observations, seriousness and gravity of the allegations leveled against the applicant/accused, the present bail application of accused/ applicant **Deepak Khanna** stands **dismissed** and accordingly disposed off.

*It is clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.* Copy of order be provided dasti as requested.

**(Susheel Bala Dagar)**  
Additional Sessions Judge-01  
(POCSO), North West/ Rohini/  
Delhi/20.01.2023