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

Date of decision: 5th NOVEMBER, 2024

IN THE MATTER OF:

+ **BAIL APPLN. 2758/2024**

ANGEL GUPTA

.....Petitioner

Through: Mr. Joginder Tuli, Ms. Joshini Tuli
and Mr. Shrikant Sharma, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State.
Mr. C.M. Sangwan and Mr. Saksham
Aggarwal, Advocates for the
Complainant.
Insp. Bijay Kumar, PS Bawana

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has approached this Court seeking bail in FIR No.430/2018, dated 29.10.2018, registered at Police Station Bawana for offences under Section 302 IPC and Sections 25/27 Arms Act.
2. Facts, in brief, leading to the present petition are as under:
 - a) It is stated that on 29.10.2018 information was received at Police Station Bawana regarding an incident wherein a lady has been shot while she was travelling on her scooty. It is stated that the information was entered vide DD No. 06A and the Police reached the spot i.e. Bawana- Auchandi Road in front of Dayal Vermi Compost. It is stated that on reached the spot, the Police found an Activa Scotty bearing No. DL-SP-7044, two



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bags, one helmet, a pair of lady shoes, blood and an empty cartridge. It is stated that the enquiry revealed that the injured/victim has been shifted to M.V. Hospital. It is stated that when the Police reached MV Hospital they found that the victim's name was Sunita W/o Manjeet R/o Dada Bhaiya Wali Gali, Bawana, Delhi. MLC of the victim/deceased, being MLC No.5372/18, was obtained. In the said MLC the doctor has mentioned alleged h/o Gunshot and the deceased was declared brought dead.

- b) FIR No.430/2018, dated 29.10.2018, was registered at Police Station Bawana for offences under Sections 302 IPC and Sections 25/27 Arms act.
- c) It is stated that during investigation, it was revealed that the deceased was a school teacher in Government Middle School Firozpur Bangar, Sonipat (Haryana) and the incident took place when she was on her way to her school. It is stated that the Husband & family members of the deceased were informed about the incident. It is further stated that the brothers of the deceased, namely Rajesh Kumar Malik & Anil Kumar, told the Police that there was an illicit relationship between Manjeet Sehrawat (husband of the deceased) and the Petitioner herein which raised a suspicion that they could be involved in this incident. It is stated that Anil Kumar further furnished copies of e-mails and photographs sent by the Petitioner herein to the husband of the deceased which showed that there was a close relationship between the Petitioner and the husband of the



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deceased. It is stated that in the e-mail, the Petitioner herein had used "Sehrawat" as her surname, which is the surname of the husband of the deceased.

- d) Further investigation revealed that the Petitioner herein was in live-in relationship with the husband of the deceased. It is stated that during the course of investigation, the daughter of the deceased produced a diary, written by deceased, in which the deceased had apprehended untoward incidents against her or her children. It is stated that the diary along with signature of deceased were sent to FSL Rohini, Delhi, for comparison and as per FSL report, the diary's hand writing matched with hand writing of deceased. In her statement under Section 164 Cr.P.C. the daughter of deceased stated that she had heard phone conversation between her mother (Deceased) and the Petitioner herein wherein the Petitioner herein has threatened her mother that she would get her murdered, get her removed from the job, kidnap her children. It is stated that during investigation a call recording dated 24.05.2018, recorded on the phone of Anil, who is the brother of the deceased, was given to the Police wherein Anil Kumar was trying to convince Rajiv Gupta, who is the father of the Petitioner herein & the Petitioner herein to stop the relationship between the Petitioner herein and the husband of the deceased. It is stated that the voice samples of the Petitioner herein, Rajiv Gupta & Anil were sent to FSL, Rohini, Delhi for comparison with the recorded conversation and as per the result, all voice samples matched. The mobile



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phones of the Petitioner herein and Rajiv Gupta were seized. Investigation reveals that the conversation between Deepak, who is the driver of Rajeev Gupta, and Rajeev Gupta shows that they hatched conspiracy and hired criminals to kill Sunita, the deceased.

- e) Call Detail Records of the accused persons were analyzed and as per the analysis of the Call Detail Records of 26.10.2018 it was found that Rajiv Gupta along with his driver Deepak, who with the help of his maternal uncle Dharmender had hired shooter Vishal @ Jony and Shazad Saifi, departed early morning and reached Bawana before 7:45 AM. In the CCTV footage of the LPR Camera installed at PP Dariyapur, two cars, bearing No. DL-8CZ-4036 & DL2CAG- 38 are seen. Car bearing No. DL2CAG- 38, is a Maruti Esteem. During investigation Vehicle No. DL-8CZ-4036 was found registered in the name of Rajiv Gupta while there was no vehicle found with the registration No. DL-2CAG-38 but Rajiv Gupta owned one Maruti Esteem Car bearing No. DL-2CAG- 2383. Investigation reveals that two digits of the number plate has been tampered with and the said car was used. It is stated that the location of Rajiv Gupta and Deepak was found at Bawana Depot which is about one Kilometre from the place of incident at 7:39 AM and the incident occurred at about 8:00 AM. Investigation further revealed that on the date of the incident Rajiv Gupta was in constant touch with the Petitioner herein and the husband of the deceased.



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- f) The Petitioner herein, Rajiv Gupta, Manjeet (husband of the deceased) were arrested on 01.11.2018.
- g) In their disclosure statement, the accused persons disclosed that the Petitioner herein and the husband of the deceased were in relationship and the Petitioner wanted to marry the husband of the deceased. It is stated that Rajeev Gupta initially disapproved this relationship but later on he gave up to the request of the Petitioner herein and asked Manjeet (husband of the deceased) to divorce Sunita (deceased) and marry the Petitioner herein. It is stated that when Manjeet rejected the idea of taking a divorce, stating that accused Manjeet belongs to a village and if he takes divorce he will be finished. The Petitioner along with the co-accused persons, decided to kill the deceased. It is stated that Rajeev contacted his driver Deepak for the said purpose. It is stated that on 23.10.2018, Rajiv Gupta, the Petitioner herein and Deepak met Manjeet near Jhung Apartment Sector-13, Rohini, Delhi, where Manjeet handed over the photographs and details regarding movement of the deceased. It is stated that Deepak introduced his maternal uncle Dharmender to Rajiv Gupta. It is stated that Dharmender accepted to kill Sunita for Rs 10 Lakhs. It is stated that Dharmender hired Shahzad @ Saili and Vishal @Johny for the said purpose. On 29.10.2018, the shooters opened fire at Sunita which resulted in her death.
- h) Deepak was arrested on 02.11.2018 and Shahzad was arrested in the case on 07.11.2018. Dharmender and Johny surrendered



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before the Court in Meerut in another cases, and were formally arrested on 17.11.2018 and 20.11.2018 respectively.

- i) It is stated that after conclusion of the investigation charge sheet under Section 302/201/120B/34/482 IPC and 25/27 Arms Act was filed on 27.01.2019 and charges have been framed against all the accused persons.
- j) It is stated that the Petitioner herein approached this Court for grant of bail. However, the said bail application was withdrawn by the Petitioner on 12.02.2020. The Petitioner was granted interim bail *vide* order dated 11.06.2021 on the basis of HPC guidelines during COVID-19 pandemic. However, *vide* order dated 18.01.2022, the interim bail of the Petitioner was cancelled on the ground that she has violated the conditions mentioned in the bail order.
- k) It is stated that the father of the Petitioner herein, Rajiv Gupta, was granted interim bail but he did not surrender and is absconding since 15.11.2022 and has been declared Proclaimed Offender by the trial Court *vide* order dated 26.08.2023.
- l) It is stated that the Apex Court *vide* Order dated 12.12.2023 passed in Miscellaneous Application No.2599/2023 in Special Leave Petition (Crl) No.6147/2023, directed the Trial Court to conclude the trial within a period of eight months from that date.
- m) Petitioner filed five bail applications before this Court. The last of such bail application was dismissed by a co-ordinate Bench of this Court *vide* Order dated 21.03.2024.



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- n) The Order dated 21.03.2024 was challenged by the Petitioner by filing an SLP, being SLP (CRL.) No.6453/2024, before the Apex Court. However, the same was withdrawn by the learned Counsel for the Petitioner on 14.05.2024.
 - o) *Vide* Order dated 05.04.2024, passed by a co-ordinate Bench of this Court in BAIL APP. No. 1072/2024, the Petitioner was granted interim bail for a period of six weeks to get the hysterectomy surgery of her mother. The interim bail of the Petitioner was extended from time to time. On 22.07.2024, learned Counsel for the Petitioner stated that the Petitioner will surrender on 29.07.2024. On the undertaking given by the learned Counsel for the Petitioner, this Court disposed of the BAIL APP. No. 1072/2024 and directed the Petitioner to surrender on 29.07.2024.
 - p) The Order dated 22.07.2024 was challenged by the Petitioner before the Apex Court by filing a Petition for Special Leave to Appeal (CRL.) No.9933/2024.
 - q) The Apex Court, *vide* Order dated 30.07.2024, dismissed the said SLP and directed the Petitioner to surrender within three days' from 30.07.2024. Accordingly, the Petitioner was to surrender on or before 02.08.2024.
 - r) Petitioner filed the present Bail Application on 03.08.2024 seeking regular bail.
3. On 05.08.2024, this Court directed the Jail Authorities to file a report to ascertain as to whether the Petitioner has surrendered on or before 02.08.2024 or not.



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4. Surrender Report, filed by the Office of Superintendent Central Jail No.6, shows that the Petitioner has surrendered on 03.08.2024

5. It is stated by the learned Counsel for the Petitioner that the Petitioner is in custody since 01.11.2018. He states that even after the Order of the Apex Court wherein the Apex Court *vide* Order dated 12.12.2023 passed in Miscellaneous Application No.2599/2023 in SLP (CRL) No.6147/2023, had directed the Trial Court to conclude the trial within a period of eight months from that date, the trial has yet not concluded. He contends that the petitioner was released on interim bail and the interim bail was extended from time to time and the Petitioner has not abused the interim bail granted to her and has surrendered on time. He further contends that the Petitioner is a young lady of about 32 years age and she is the only offspring in her family and has to look-after her ailing mother. He further states that all the prosecution witnesses have been examined and, therefore, there is no chance of the Petitioner tampering with evidence or influencing the witnesses. He, therefore, states that the Petitioner be released on bail.

6. *Per contra*, learned APP for the State, vehemently opposes the bail by contending that knowing fully well that the husband of the deceased was married, the Petitioner herein had illicit affair with him and when the husband of the deceased showed his unwillingness to divorce the deceased due to societal pressure, the Petitioner herein, with the motive of eliminating the deceased, conspired with his father to kill the deceased. The learned APP for the State submits that PW-2 has stated that the husband of the deceased and the Petitioner had an illicit affair because of which the husband of the deceased used to stay away from the deceased. He states that there is enough material against the Petitioner herein which gives a reasonable apprehension



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that the Petitioner has committed the offence. He states that looking at the gravity and heinousness of the offence, bail ought not be granted to the Petitioner. The delay in trial cannot be solely attributed to the Prosecution but still the Prosecution has taken all efforts to ensure that the trial is concluded at the earliest.

7. Heard the learned counsel for the Petitioner and the learned APP for the State and perused the material on record.

8. The Petitioner is accused of an offence punishable under Section 302 IPC. PW-2, who is the daughter of the deceased, in her deposition has stated that her father and the Petitioner herein had an illicit affair because of which there used to be tension in their house. PW-2 has further stated that her father didn't used to come home for months and used to live with the Petitioner herein. In the diary given by the PW-2, which was written by the deceased, the deceased had raised an apprehension that there is danger to her and her children's life. The call detail records and digital evidence established the close relationship between the Petitioner herein and the husband of the deceased. The phone recording given by the brother of the deceased shows that when the husband of the deceased showed his unwillingness to divorce the deceased due to societal pressure, the Petitioner herein, with the motive of eliminating the deceased, conspired with his father to kill the deceased.

9. The parameters of grant of bail have been laid down by the Apex Court in several judgments.

10. In Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr., **2010 (14) SCC 496**, the Apex Court has observed as under:-

“9. We are of the opinion that the impugned order is



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clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

[See State of U.P. v. Amarmani Tripathi [(2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] (SCC p. 31, para 18), Prahlad Singh Bhati v. NCT of Delhi [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] , and Ram Govind



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Upadhyay v. Sudarshan Singh [(2002) 3 SCC 598 : 2002 SCC (Cri) 688] .]

10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal. In Masroor [(2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] , a Division Bench of this Court, of which one of us (D.K. Jain, J.) was a member, observed as follows : (SCC p. 290, para 13)

“13. ... Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided, but there is a need to indicate in such order reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence.”

(See also State of Maharashtra v. Ritesh [(2001) 4 SCC 224 : 2001 SCC (Cri) 671] , Panchanan Mishra v. Digambar Mishra [(2005) 3 SCC 143 : 2005 SCC (Cri) 660] , Vijay Kumar v. Narendra [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195] and Anwari Begum v. Sher Mohammad [(2005) 7 SCC 326 : 2005 SCC (Cri) 1669] .)”

11. The Apex Court in Neeru Yadav v. State of U.P., (2014) 16 SCC 508, has observed as under:-

“9. In this context, a fruitful reference be made to the pronouncement in Ram Govind Upadhyay v. Sudarshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688 : AIR 2002 SC 1475] , wherein this Court has



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observed that grant of bail though discretionary in nature, yet such exercise cannot be arbitrary, capricious and injudicious, for the heinous nature of the crime warrants more caution and there is greater chance of rejection of bail, though, however dependant on the factual matrix of the matter. In the said decision, reference was made to Prahlad Singh Bhati v. NCT of Delhi [Prahlad Singh Bhati v. NCT of Delhi, (2001) 4 SCC 280 : 2001 SCC (Cri) 674 : (2001) 2 SCR 684] and the Court opined thus : (Sudarshan Singh case [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688 : AIR 2002 SC 1475] , SCC p. 602, para 4)

“(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”



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10. In Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974] , the Court has laid down certain factors, namely, the nature of accusation, severity of punishment in case of conviction and the character of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and prima facie satisfaction of the Court in support of the charge, which are to be kept in mind.”

12. The aforesaid principles laid down by the Apex Court have been re-stated in several other subsequent judgments, viz., Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 and Mahipal v. Rajesh Kumar, (2020) 2 SCC 118.

13. The Apex Court *vide* Order dated 12.12.2023 passed in Miscellaneous Application No.2599/2023 in SLP (CRL) No.6147/2023, had directed the Trial Court to conclude the trial within a period of eight months from that date. It has been stated by the learned APP for the State that from 31.01.2024 to 30.08.2024 there are 16 bail orders with respect to different accused in the case and it cannot be said that the prosecution has been lax in proceeding with the trial. This Court is of the opinion that the Trial Court is proceeding in right earnest in concluding the trial and the fact that the trial has not been completed within the time stipulated by the Apex Court would not automatically result in grant of bail to the Petitioner herein in view of the repeated bail applications filed by the various accused in the case and also keeping in mind the various parameters that are required to be considered while deciding a bail application.



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14. Even though most of the prosecution witnesses have been examined but the Petitioner is accused of a very serious offence. Though at the stage of bail, the Court need not conduct a mini trial but the heinousness of the offence is one of the important and relevant factors while considering as to whether bail should be granted or not. The Petitioner has repeatedly moved applications for grant of bail and has been granted interim bail to take care of her mother. The operation of Petitioner's mother has been conducted successfully and even after the condition of the Petitioner's mother has improved, the Petitioner has repeatedly approached this Court for extension of bail. The father of the Petitioner is absconding and there is all likelihood that the Petitioner would also abscond, if released on bail at the fag-end of the trial, with the help of her father, who has not surrendered and has abused the liberty granted to him.

15. The present case is one of a well planned murder where professionals have been hired to commit the heinous crime. The Petitioner, if convicted, can be sentenced to life or even death. The Petitioner is a professional actress and is in a position to abscond and influence the witnesses.

16. Looking at the gravity of the offence, the manner in which the incident took place and the fact that the Petitioner's father has absconded, after being released on bail, the chances of the Petitioner fleeing from justice are high.

17. In the interest of justice, this Court is of the opinion that though the trial is coming to a fag-end, bail ought not to be granted to the Petitioner. However, the Trial Court is directed to ensure that the trial is completed within a period of five months from today.



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18. In view of the above, this Court is not inclined to grant bail to the Petitioner at this juncture.

19. Accordingly, the bail application is dismissed along with the pending application(s), if any.

20. It is made clear that the observations made in this order are not on the merits of the case.

SUBRAMONIUM PRASAD, J

NOVEMBER 05, 2024

Rahul