

SC No. 378/2021
State Vs. Sanjay Sharma
FIR No.344 /2020
PS Karawal Nagar

19.01.2024

Present: Sh. Vikash Kumar, Ld. Addl. PP for the State.
Ld. Counsel for accused.

1. Matter is also fixed for arguments on the bail application of accused Sanjay Sharma. Arguments have been heard on the bail application.

2. Ld. Counsel for accused has argued that accused has been falsely implicated in the present matter. He has clean antecedents. He is in custody since 01.07.2020 immediately after the present incident. Trial has started. All the public witnesses have been examined and have turned hostile. The case is based on circumstantial evidence and ballistic report of FSL. It is a planted case and there is no independent corroboration. Since public witnesses have already been examined, there is no likelihood that applicant will be able to influence remaining witnesses. It is further submitted that he has clean antecedents and is sole bread earner of his family, therefore, he be admitted to bail.

3. On the other hand, Ld. Addl. PP for the State has opposed the bail application in view of serious allegations of murder.

4. I have seen the record and note that total seven witnesses have been examined till date in the present case. Of them, there are five public witnesses, out of whom three are in close relationship with accused i.e his son, his wife and his father-in-law. It is no surprise that all three of them have turned hostile.

5. Other public witnesses i.e PW1 Mohan Kumar Sharma, residing in close vicinity of the place of the murder, has supported the case of the prosecution and made specific allegations against the

accused as having murdered the deceased. He has described the incident in detail. Secondly, the other public witness, father of the deceased has been examined as PW4. He has also mentioned in his evidence that on the day of the incident, immediately after the incident, Reena, wife of the accused, telephonically called him and told him that her husband(accused) Sanjay Sharma had killed the deceased Avnish Kumar Tyagi.

6. As per the prosecution case, Reena was having illicit relationship with the deceased and accused was enraged due to illicit relationship and had killed the deceased in the house of his father-in-law where the deceased had gone to meet Reena. The death was caused due to the deceased having received bullet injuries. Even a bullet was recovered from the dead body at the time of postmortem.

7. Ld. Addl PP for the State has further argued that FSL expert is yet to be examined in this matter. As per the FSL result, the bullet which is recovered from the dead body of the deceased was fired from the weapon which was recovered at the instance of accused.

8. Ld. Counsel for accused has argued that recovery of weapon is doubtful as no public witness was joined. Witnesses in whose presence recovery of offending weapon was affected, are yet to be examined. Though it is correct that applicant has clean antecedents and is in custody since more than 3 ½ years but allegations against him are very serious and offence involves capital punishment/life imprisonment in the event of conviction and there is strong scientific evidence available on record apart from the evidence of public witnesses.

9. In overall circumstances of the case, in my view, it is not a stage where court should admit him to bail. Accordingly, bail

application of accused Sanjay Sharma is dismissed. Copy of this order be given *dasti* to Ld. Counsel for accused as prayed for.

10. Nothing stated in this order shall amount to expression of opinion on merits.

11. Put up for the date already fixed.

(Dr.Savitri)
ASJ-02(NE)/ KKD/Delhi
19.01.2024

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