

IA No. 27/2023  
SC No. 417/2018  
State Vs. Arvind @ Binda  
FIR No. 375/2018  
PS: Gokul Puri  
U/s: 302/34 of IPC

16.09.2023

**ORDER ON APPLICATION FOR BAIL OF  
APPLICANT/ACCUSED ARVIND @ BINDA**

1. This order of mine will disposed of an application for bail filed by applicant/accused Arvind @ Binda.
2. I have heard the Ld. Counsels for the parties.
3. Sh. R. K. Kochar, Ld. Counsel for applicant/accused submitted that the case of the prosecution is based on the circumstantial evidence and submitted that prosecution has claimed that the murder of the deceased was committed between 9:00 PM to 10:00 PM on dated 31.07.2018 and submitted that from the call detail record of this applicant/accused, received by the IO during investigation, it is clear that this applicant/accused was not present in the area of Chand Bagh, where, the murder has been committed, as between 08:39 PM to 10:31 PM on dated 31.07.2018, the location of mobile phone of this accused is shown at Brijpuri and submitted that the applicant/accused has been falsely implicated in the present case and submitted that the accused Rahis Ahmad was living with his family in the house of father of this applicant/accused Arvind @ Binda on rent. He has also submitted that on dated 31.07.2018, in view of heavy rain,

water logging problem had arisen in the shop of the JIJA of this applicant/accused situated in the area of Majnu Ka Tila, therefore, the location of accused Rahis Ahmad and this applicant/accused Arvind @ Binda is also at the same place. He has also submitted that from the mere location at same place of the accused Rahis Ahmad and this applicant/accused, Arvind @ Binda, it cannot be presumed that this applicant/accused had committed murder of the deceased. He has also submitted that this applicant/accused was arrested on dated 06.08.2018 and he was granted interim bail, vide order dated 14.08.2020, as per the guidelines of the Hon'ble HPC and he had surrendered in the jail on dated 07.04.2023 and during the period of interim bail, he did not misuse his liberty. He has also submitted that this applicant/accused is not previously involved in any other case and submitted that number of witnesses are yet to be examined. He has also submitted that the prosecution has failed to serve the notice to the witness Sadik for considerable period and it may take long time in completion of the trial, as, the matter is fixed for evidence of the prosecution for 21.10.2023 and prayed for grant of bail. He has relied upon the judgments **Dharmendra Chandulal Patel Vs. State of Gujrat**, 2002 CRL. L. J. 943; **Balkrishna Tukaram Angre Vs. State of Maharashtra**, Crl. Appeal No. 1704 of 2017; and **Petition (s) for Special Leave to Appeal**, (Crl.) No (s). 4369/2017 decided on 22.09.2017.

4. On the other hand, Sh. Sukhbeer Singh, Ld. Addl. PP for the State has vehemently opposed the present application

for bail and submitted that this applicant/accused Arvind @ Binda had committed murder alongwith Rahis Ahmad and Abid and the disclosure statement of accused Rahis Ahmad was also recorded. He has also submitted that call detail records of the phones of this applicant/accused Arvind @ Binda and accused Rahis Ahmad show that these accused remained together entire day on the date of commission of the murder and even at the time of commission of murder. He has also submitted that statements of one Sadik u/s. 161 of CrPC and 164 of CrPC were also recorded, who had lastly seen these accused Arvind @ Binda, Rahis Ahmad and Abid with the deceased and this Sadik had gone from there, as, he was feeling hunger and thereafter, accused Abid gave phone and certain documents of the property of the deceased to Sadik and submitted that this Sadik is a material witness, who had lastly seen the deceased in the company of all the accused and thereafter, deceased is not seen or heard alive and submitted that since, this applicant/accused has committed heinous offence of murder and charges under section 302/34 of IPC have been framed against this accused. He has further submitted that now the matter is already fixed for 21.10.2023 for evidence of the prosecution and notice to witness Sadik has already been orderd to be served through the DCP, North-East by this court. He has also submitted that another public witness Abid, who had seen this applicant/accused soon after the occurrence, is also to be examined and in case, this applicant/accused is granted bail, he may temper with the

evidence of the prosecution and he may abscond from the proceeding and prayed for dismissal of the bail of this accused, as, the case of the prosecution is not merely based on the disclosure statement of the accused Rahis Ahmad and call detail records. He has further submitted that area of Brijpuri and Chand Bagh are adjoining to each other and submitted that in view of the same, the location of this applicant/accused between 8:29 PM to 10:31 PM on dated 31.07.2018 is seen in the record of the calls and further submitted that witness Sadiq, (who is yet to be examined), belongs to the village of accused Abid and submitted that in case, this accused is released on bail, he may temper with the evidence of the prosecution and prayed for dismissal of the present application.

5. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

6. The perusal of the record reveals that this applicant/accused is alleged to have committed offence of murder and charges under section 302/34 IPC have been framed against this applicant/accused. The Ld. Counsel for the applicant/accused has submitted that the case of the prosecution is merely based on the disclosure statement of co-accused Rahis Ahmed and call detail records of the phones of these two accused and on the basis of the same, this accused cannot be denied bail. He has relied upon the above said judgments. But, this court has perused the record, but, as Sadiq, who is a material public

witness, is yet to be examined and since, this court has already ordered for the service of notice to this witness through the DCP concerned and in view of the peculiar facts and circumstances of the present case and since the case is running at the crucial stage, where, the material public witness of last seen theory is yet to be examined, so, in the considered opinion of this court, the abovesaid judgments relied upon by the Ld. Counsel for the applicant/accused are of no help for this applicant/accused for getting the bail. So, taking into consideration the nature of accusation and gravity of the offences alleged to have committed by this accused and likelihood of tempering with evidence of the prosecution, this accused does not deserve the concession of the bail. Therefore, **this application for grant of bail filed by the applicant/accused Arvind @ Binda is dismissed.** Dasti copies of order be provided to the parties. Attested copy of this order be sent to the Superintendent of Central Jail, Tihar for supplying the same to the applicant/accused.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/16.09.2023**