

IA No. 07/2024 in SC 126/2018
STATE Vs. Shahjman @ Saju
FIR NO. 960/2017
PS S.P. Badli
U/s 302/34 IPC

18.03.2024

This is an application under Section 439 Cr.P.C. for grant of bail moved on behalf of applicant/accused Shahjman @ Saju.

Present:- Mr. P.K. Samadhia, Ld. Substitute Additional PP for the State.

Reply to the bail application has already been filed.

Arguments have already been heard.

Various grounds for seeking bail have been mentioned in the application, which have been duly considered, however, the same are not being reproduced herein for the sake of brevity. In nutshell,

1. Briefly stated, on 29.10.2017 DD No.4A was received in PS S.P. Badli regarding stab injury with knife to a person at Nagli Poona Flyover and the injured was being taken to Raja Harish Chander Hospital. The said call was marked to ASI Surender, who reached the said hospital, where the doctor had declared the injured as brought dead and eventually, the present FIR has been registered.

2. It is argued by Ld. Counsel for the applicant/accused that accused is running in JC since 09.11.2017 and has been falsely implicated in the present case. It is argued by ld. Counsel that material witnesses have already been examined. That trial will take its own course and it is prayed that a lenient view be taken.

3. Ld. Substitute Additional PP for the State vehemently opposed the bail application submitting that the allegations levelled against the applicant/ accused are very grave and serious in nature and the accused has played an active role in committing the crime.

4. Record perused. I have also perused the report filed by the IO.

5. The present case is based on the direct evidence. The prosecution has relied upon the statement of PW12 Anil Singh, who was driving champion tempo at the time of incident and the deceased was also sitting along with him at that time. He has identified the accused as the person, who had committed robbery with them and also stuck knife blow in the chest of the deceased, who was sitting along with him. The said accused has also been identified by him in the court. The accused has also refused TIP before Ld. M.M. on 10.11.2017.

It was further argued that PW12, PW14 and PW7, who are material witnesses but their story is improbable.

In view of the judgment titled as **Satish Jaggi Vs. State of Chhatisgarh, 2007, CRLJ 2766**, this court cannot appreciate the credibility and reliability of the prosecution witnesses, as a whole which can only be done after conclusion of the trial.

Also, as per the report of the IO, during the course of investigation, the CDRs of mobile no.9818017966 of Anil Kumar, eye witness/driver, mobile no.7531095884 of JCL Vijay @ Daalta, mobile no. 7206478998 and 9416378555 of deceased Ashok, were analysed and

found that the location of mobile phone of deceased Ashok and that of eye witness/driver Anil Kumar at the place of occurrence.

In the present case, owing to the gravity of the offence and the active role played by the applicant/accused, applicant does not warrant any leniency at this stage. Moreover, the bail applications of the applicant/ accused have been **dismissed** on **06.08.2019 & 01.12.2023**.

6. Seeing the totality of the fact and circumstances and the above said discussion, no ground for grant of bail is made out at this stage. The bail application accordingly **dismissed**.

Application stands disposed off.

7. *It is clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.*

8. Copy of the order be given *dasti* to the Ld. Counsel for the applicant/accused as well as be sent to concerned IO, concerned Jail Superintendent, Ld. Secretary, DLSA (North), through all possible modes, as per rules.

(Shefali Sharma)
Addl. Sessions Judge-02(North)
Rohini Courts Delhi
18.03.2024