

IA No.03-2024 Bail application (applicant Sumit)

SC No. 387-2020

STATE Vs. Sumit & Anr.

FIR No. 66/2020

PS : Janakpuri

U/s : 302/34 IPC & 25/27/54/59 Arms Act

13.12.2024

Present: Shri Vijender Singh Kharb, Ld. Sub. Addl. Public
Prosecutor for the State.
Shri Samyak Gangwal, counsel for the applicant/
accused Sumit.
IO Inspector Satyender Dhull.

Counsel for the applicant/accused submits that accused Sumit has been falsely implicated in the present case and he is in judicial custody since 4 years 9 months. It is further submitted that the case is purely based on circumstantial evidence and even the recovery of murder weapon is highly suspicious. It is further submitted that there is no CCTV footage or eye witness of the incident. It is further submitted that even the alleged cartridge was recovered on open road on 07.02.2020 whereas nothing was found on the search of said road on 05.02.2020. It is submitted that PW Shalini has stated during her cross-examination that she did not prepare the CD. It is submitted that the applicant/accused has clean antecedents and has a widowed mother to look after. It is submitted that the applicant/accused has been released on interim bail three times and during that period did not influence any witness or tamper with evidence. It is submitted that applicant/accused is ready to abide by any condition imposed while grant of bail and it is prayed that accused may be released on bail.

On the contra, learned Sub. Additional Public Prosecutor and IO have opposed the bail application stating that the present accused is involved in the serious offence i.e. offence punishable under Section 302 IPC. It is further submitted that the lead was recovered from the dead body in the hospital and as per the FSL result, the cartridge match that of the lead. It is submitted that the weapons of offence and two empty cartridges were recovered at the instance of the applicant/accused and co-accused and certified copy of CDR and mobile phone from which witness Shalini received threat had been obtained and filed alongwith supplementary charge-sheet. It is further submitted that the applicant/accused refused to give voice samples. It is submitted that prosecution witnesses are yet to be examined and there is possibility that accused may threaten the prosecution witnesses. It is prayed that accused should not be released on bail.

Arguments heard. Record perused. Considered.

Perusal of the record reflects that the matter is still at the stage of prosecution evidence and the testimony of PW-1 Mohini reflects that whenever she and deceased Gagandeep used to go, the accused persons including applicant/accused used to follow them and once applicant/accused had stopped her from going to office and had broken her mobile phone. She further deposed that on the day of incident she and deceased had gone to District Centre, Janak Puri on 05.02.2020 where she saw the applicant/accused and on seeing him, applicant/accused had hid himself behind the car in the parking and after deceased Gagandeep dropped her at her home after 5-6 pm, she received a phone call from Mata Chanan Hospital who informed that one Sardarji had been entered in the accident. She admitted during

her cross-examination by Ld. Addl. Public Prosecutor for the State that she had seen Tushar alongwith applicant/accused in District Centre, Janak Puri. She also stated that it would be possible that she may not have recollected the actual date of incident i.e. 04.02.2020 as the incident took place more than two years ago. She also identified the conversation between her sister and applicant/accused and identify their voice. During her cross-examination, by counsel for Applicant/Accused, she stated that she did not remember the clothes which Applicant/Accused was wearing when she had identified Applicant/Accused after his arrest and she further stated that her family members were not aware about her relationship with deceased and they became aware subsequently when applicant/accused used to have harass her. Further, testimony of PW-6 Harjeet reflects that she has stated that her son told her that accused persons used to follow him. PW-16 Shalini has stated during her deposition that applicant/accused had told her that her sister could not talk to Gagandeep without his permission. She was cross-examined by Ld. Addl. Public Prosecutor for the State where she identified the transcript of the conversation between her and applicant/accused. During her cross-examination by Counsel for Applicant/Accused, she stated that she was not tutored witness. Thus, in view of the evidence stated above, it is seen that the allegations against the applicant/accused are grave and serious in nature. It is settled proposition of law that evidence cannot be read in piecemeal and has to read in its entirety. In view of the aforesaid facts and circumstances, particularly, the gravity of offence i.e. offence punishable under Section 302 IPC and that the present case is at the stage of prosecution evidence and other prosecution

witnesses are yet to be examined, therefore, at this stage, I am not inclined to grant bail to the applicant. Accordingly, bail application of the applicant is dismissed.

Nothing shall tantamount to the expression of the merits of the case.

Application is disposed of accordingly.

Copy of this order be given dasti to the counsel for the applicant and IO, as prayed for.

(Gurmohina Kaur)
ASJ-05/South-West District,
Dwarka Courts/New Delhi
13.12.2024