

IA No. 4/2023
SC No. 271/2022
State Vs. Ali Mohammad
FIR No. 15/2021
PS: Dayalpur
U/s: 302/201/365/34/120-B of IPC &
Sec. 25/27 of Arms Act

03.05.2023

Present: Sh. Nazim, Ld. Counsel for the applicant/accused
Ali Mohammad.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.
IO/Insp. Subodh Kumar.

1. The matter is fixed for hearing arguments on the application for grant of bail filed by this applicant/accused Ali Mohammad.

2. I have heard the ld. Counsels for the parties.

3. Sh. Nazim, Ld. Counsel for the applicant/accused Ali Mohammad has submitted that this applicant/accused has been falsely implicated in the present case and submitted that in the case in hand, the FIR was registered on the statement of one Saleem, who is maternal uncle (MAMA) of the deceased, who had lodged the report of missing of the deceased and he had also mentioned in the FIR that he had not suspicion on any person and thereafter, one Roju, who is son of this applicant/accused Ali Mohammad was arrested, who is alleged to have made disclosure statement and submitted that in the said disclosure statement, this applicant/accused is alleged to have been named by Roju. He has also submitted that nothing has been recovered from this applicant/accused, who is aged about 75 years and submitted that during the investigation, nothing has been brought on the record against this applicant/accused except the disclosure

statement of Roju. He has also submitted that the disclosure statement of Roju cannot be read against this accused and submitted that the disclosure statement of an accused made in the police custody is admissible to the extent of discovery of the fact and submitted that merely on the basis of the disclosure statement of the co-accused Roju, this applicant/accused was arrested on dated 07.09.2022 and since then, he is behind bars and also submitted that charges are yet to be framed and it will take long time in completion of the trial and no fruitful purpose will be served by keeping this applicant/accused behind bars for any longer and prayed for grant of bail. He has also relied upon the judgment passed by the Hon'ble Supreme Court of India in case YADALA SUBBA RAO & ANR. V. UNION OF INDIA, CRL. APPEAL NO. 1153/2023.

4. On the other hand, Sh. Sukhbeer Singh, the Ld. Addl. PP for the State has vehemently opposed the present application for grant of bail and submitted that the deceased was having love affairs with the daughter of this applicant/accused and deceased had gone to the house of this accused in the night and further submitted that the deceased was killed by Roju, who is the son of this applicant/accused in his house. He has further submitted that the firearm used in committing the murder of the deceased has been recovered at the instance of the son of this accused and remaining part of the burnt dead body of the deceased was also recovered, as, the accused Roju, after committing the murder of the deceased, had burnt his body and further submitted that since, this applicant/accused is father of the accused Roju, who had committed murder of the deceased. He has also submitted that the disclosure statement of the co-accused cannot be ignored and submitted that the charge-sheet against this accused

has been filed u/s. 302/201/365/34/120-B of IPC and charges are yet to be framed, so, he does not deserve the concession of bail 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 was arrested on dated 07.09.2022 and in the case in hand, the FIR was registered on the statement of the maternal uncle of the deceased, wherein, he has reported for missing of the deceased and son of this applicant/accused Roju was arrested and his disclosure statement was recorded and in furtherance of the disclosure statement of co-accused Roju, the firearm allegedly used in the commission of the murder of the deceased, was recovered and the remaining part of the burnt dead body of the deceased was also recovered. The Ld. Counsel for the applicant/accused has submitted that on the basis of the disclosure statement of co-accused Roju, this accused was arrested. He has also relied upon the judgment passed by the Hon'ble Supreme Court of India in case YADALA SUBBA RAO & ANR. V. UNION OF INDIA, CRL. APPEAL NO. 1153/2023. The Ld. Addl. PP for the State has submitted that since, this accused is also the father of the accused Roju, who had committed murder and this applicant had helped to the accused Roju in destroying the evidence, being family member. Since, the charge-sheet has already been filed against this accused u/s. 302/201/365/34/120-B of IPC and this accused was arrested way back on dated 07.09.2022 and he is stated to be old man of 75 years and it may take time in completion of the trial, so, taking into consideration the facts and circumstances in their entirety, this

applicant/accused Ali Mohammad is ordered to be released on bail on furnishing personal bond in the sum of Rs.50,000/- with one surety of like amount, subject to condition that he will not temper with the prosecution evidence, he will not leave the territory of NCT of Delhi, without prior permission of the court and he will not indulge in any other criminal activity in future and, in case, he will violate any condition of this order, the prosecution will be at liberty to file application for cancellation of bail of this accused. In the above said terms, **the application for grant of bail filed by applicant/accused Ali Mohammad stands allowed.** Dasti copies of this order be provided to the parties. **The attested copy of this order be also sent to the Superintendent of Central Jail, Tihar for supplying the same to this accused.**

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/03.05.2023