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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 382/2024**

VIPIN SINGH

.....Appellant

Through: Mr. Counsel (Appearance not given)

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Aman Usman, APP with Mr. Manvendra Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **19.01.2026**

CRL.M.(BAIL) 465/2025

1. This is an application, seeking suspension of sentence of the appellant during the pendency of the appeal. The appellant was convicted under section 302/34 of the Indian Penal Code, 1860 [“IPC”] vide Judgement dated 07th November 2023 and vide Order on Sentence dated 08th April, 2024, the appellant was sentenced to Life Imprisonment and a fine of Rs. 25,000/-.

2. The learned counsel for the appellant submits that the impugned judgment is contrary to settled principles, inasmuch, as the conviction rests primarily on the testimonies of PW-14 and PW-19, child witnesses of tender age, whose evidence is riddled with material contradictions, improvements and inherent improbabilities. It is



submitted that the statements of PW-14 & PW-19 are contrary to each other. It is submitted that there is no proper identification of the body, based on identification of the photographs in the absence of DNA examination.

3. It is further argued that the as per post-mortem report Ex. PW-3/A, no chilli powder was found in the eyes of the deceased. No remnants of chilli powder were found by the crime team at the crime scene or on the clothes of the deceased at the time of recovery of the body. It has been pointed out that PW-14, in his statement under Section 164 of Code of Criminal Procedure, 1973 [“**Cr.PC**”] as also in his testimony before the trial court, stated that the accused persons hit his father with bricks but the alleged weapons recovered are stones and as per the post-mortem report Ex. PW-3/A and the subsequent opinion of the doctor Ex. PW-3/B, the injury found on the head of the deceased was possible from irregular stones. The recovery of stones and not brick thus falsifies the testimony of PW-14. It is also argued that there is no FSL Report *qua* the viscera of the deceased, so the testimony of PW-14 *qua* administering alcohol to his father by the accused persons, is not proved by the prosecution. It is thus argued that the testimony of PW-14, who is the sole eye witness of the occurrence, cannot be regarded to be of sterling quality, and thus, cannot form the basis for conviction.

4. *Per contra*, the learned APP has vehemently opposed the application, stating that it is a case founded on direct evidence, PW-14 being the sole eye witness of the incident, whose version is duly corroborated by PW-19 to the extent that deceased, the accused



persons and the witness (PW-14) had gone together at the place of occurrence. It has been contended that PW-14 is a natural witness of the incident and there is no material to suggest any motive on his part to falsely implicate the appellant. It is further submitted that there is no presumption that child witnesses are not competent witnesses, and in this case, child witnesses have duly supported the prosecution case and their testimonies have remained unimpeached and without any doubt. Mere absence of chilli powder on the body and clothes of the victim does not discredit the ocular version given by PW-14, particularly when the chilli powder and liquor bottle were recovered from the spot. The recovery of chilli powder and liquor bottle from the spot corroborates the testimony of PW-14 regarding the manner of occurrence. With regard to the identification of the body, it is submitted that the same has been duly identified by PW-16 from the photographs and identification mark to be that of deceased Tej Bahadur and there is not even a suggestion put during the cross examination of PW-16 that the body was not that of Tej Bahadur.

5. It is contended that the learned trial court has passed a detailed and reasoned judgment based on the testimonies of the witnesses. It is further submitted that the sentence prescribed under Section 302 IPC is life imprisonment and the appellant has merely undergone 1 year and 8 months approximately out of the total sentence and there is no exceptional circumstance warranting suspension of sentence.

6. The Court has considered the rival submissions and perused the record. At the stage of considering the application for suspension of sentence, the Court is not required to undertake a detailed re-



appreciation of evidence, but is expected to assess whether a *prima facie* case for suspension is made out, keeping in view the evidence, gravity of offence, the period of custody undergone and the likely of early hearing of the appeal.

7. The contention raised by the appellant regarding the alleged contradictions, inconsistencies and lack of corroboration essentially pertained to appreciation of evidence, which shall be examined in detail at the stage of final hearing of the appeal and cannot be conclusively adjudicated upon while considering the present application for suspension of sentence. The first application for suspension of sentence has already been dismissed by this Court *vide* order dated 24.04.2024. There has been no change of circumstance since the passing of the said order except passage of sometime, which cannot by itself be a ground for suspension of sentence in a case involving the serious and grave offence like murder.

8. In the absence of any exceptional or compelling circumstance warranting the exercise of discretion under Section 389 of the Cr. PC, this Court is not inclined to suspend the sentence. Accordingly, the application seeking suspension of sentence during pendency of the appeal is dismissed.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

JANUARY 19, 2026/na/as