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

+ CRL.A. 346/2017

RAJ KUMAR CHOUHAN

..... Appellant

Through

Mr. Akshya Kuar Shara, Advocate

versus

STATE OF DELHI

..... Respondent

Through

Mr. Rajat Katyal, APP

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% 27.04.2017

Crl.M(B).607/2017(suspension of sentence)

Appellant seeks regular bail. Counsel for the appellant submits that the appellant has been in incarceration for a period of over seven years and he has never applied for bail throughout the period of trial and thereafter. The counsel further submits that for one occasion, he had applied for interim bail. As he could not arrange for a surety, he could not derive any benefits. He further submits that the conduct of the appellant in Jail has been throughout satisfactory. On the merits, the learned counsel submits that the present case is based on circumstantial evidence. He submits that the appellant has been falsely implicated and there is no evidence which would show that the appellant was in any way connected with the murder of the deceased. Counsel submits that the deceased went missing on 04.04.2010 at 8:00 p.m. According to the prosecution, the deceased while leaving his house had informed his mother PW-1 Smt. Ganga Shree that he is going to meet the appellant to recover his money which he has lent him. Counsel submits that this important fact is missing in the missing report. He further submits that according to PW-1, the deceased had visited the house the following day, but even thereafter the mother did not inform the police about the fact that her son had informed that he was



going to meet the appellant. Learned counsel submits that there are material improvements in the statement of PW-1 and thus, the appellant has been wrongly convicted. Additionally, it is submitted by the counsel for the appellant that as per the case of the prosecution when the deceased left the house at 8:00 p.m., he was talking to the appellant on phone. However, the call records relied upon by the prosecution shows that the first call was made by the deceased to the appellant at 8:20 p.m. and thereafter there were two calls between the appellant and the deceased at 8:40 and 8:42 p.m.

Learned counsel for the State submits that the Trial Court has carefully analysed the entire evidence and has rightly convicted the appellant based on circumstantial evidence.

We have heard the learned counsel for the parties, considered their rival submissions. We are satisfied that the appellant is able to make out a case for suspension of sentence during the pendency of the appeal. Accordingly, the application is allowed. The sentence of the appellant is suspended during the pendency of the appeal, on his furnishing a personal bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the Trial Court. The appellant will not contact the family members of the deceased; will not leave the National Capital Territory of Delhi; will provide one mobile phone number to the Trial Court and also to the SHO. In case of any change of address, he shall inform the same to the SHO and the Trial Court.

The application stands disposed of.

Dasti.

G.S.SISTANI, J

VINOD GOEL, J

APRIL 27, 2017/pst /
CRL.A. 346/2017

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