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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 594/2016**

MATADIN

..... Appellant

Through: Mr.Dhan Mohan and Ms.Tanu B.
Mishra, Advs.

versus

THE STATE (GNCT OF DELHI)

..... Respondent

Through: Mr.Varun Goswami, APP for the
State.
SI Yogesh Kumar, PS Timarpur.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **22.11.2016**

CrI.M.B.No.1263/2016

1. We have heard learned counsel for the parties on this application for suspension of sentence during the pendency of the appeal. Mr.Dhan Mohan learned counsel for the appellant submit that the case of the prosecution rests on the circumstantial evidence and that the prosecution has failed to establish an unbroken chain of the events to reach an unescapable conclusion of the commission of murder by the appellant.
2. It is submitted that, according to the prosecution, the reliance is placed on the statement given by the Sahib Singh, father of the deceased who made a complaint of the missing person report at 10:00 p.m. on 6th March, 2014 (logged as DD No. 21B) at PS Timarpur to the effect that his son Pradeep had left house on the night of 3rd March, 2014 and had not

returned. It is further submitted that thereafter, according to the prosecution, dead body of the Pradeep was recovered by the police on 10th March, 2014 from the *ganda nala* Gopal Pur and the police registered FIR No. 155/2014 under Section 365 IPC. Subsequently, statement of Sahib Singh was also recorded wherein he had stated that he had suspicion on the appellant, inasmuch as he stated that the appellant made the last call received on the phone of the deceased on 3rd March, 2014.

3. Learned counsel would submit that the appellant was implicated and arrested in this case on the basis of this statement. It is submitted that the prosecution has relied thereafter on an alleged recovery of blood stained clothes of the appellant around *ganda nala* on 14th April, 2014. Though the appellant challenges this recovery, it is submitted that blood stained clothes on which forensic testing is opined the blood thereon was matching to the blood group of the deceased.

4. Learned counsel for the appellant submit that the appellant disputes the recovery, however, even if they were believed against the appellant, even the recovery of the blood stained clothes does not establish the unbroken chain of event which would point to the guilt of the appellant. It is submitted that the dead body was recovered in an open space almost a week after the deceased left his home and there is no evidence at all to connect the appellant to the commission of the actual offence.

5. The foregoing submissions would show that the appellant has made out an arguable case. In view of the above, we direct as follows:

(i) Subject to the appellant furnishing a personal bond in the sum of Rs. 10,000/- with one surety of the like amount to the satisfaction of the learned Trial Court, the remaining sentence of the appellant shall remain suspended during the pendency of the appeal;

(ii) Prior to his release, the appellant shall furnish the address as well as the mobile phone number which he would be using and the phone number of a close relative to the SHO of Police Station Timarpur. In case of any change in either his telephone number or address, the appellant shall keep the SHO of Police Station Timarpur informed of the same.

(iii) During the pendency of the appeal, the appellant shall report any time during day light hours on the second Saturday of the months of June and December every year to the SHO of Police Station Timarpur Delhi, commencing from 10th December, 2016 and; in case of any default the SHO will take the necessary steps.

(iv) The appellant will not get in touch with the witnesses or the legal heirs of the deceased.

6. Nothing herein contained is an expression of our opinion on the merits of the case.

This application is allowed in the above terms.

Copy of this order be given dasti as prayed.

GITA MITTAL, J

ANU MALHOTRA, J

NOVEMBER 22, 2016

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