

# Ankit Sharma vs The State Of Nct Of Delhi on 8 January, 2021

**Author: Mukta Gupta**

**Bench: Mukta Gupta**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ BAIL APPLN. 3542/2020  
ANKIT SHARMA

Represented by: Mr.Sudarshan  
Mr.Hitain Ba  
Mr.Rohit Bha  
Kumar, Advoc

versus

THE STATE OF NCT OF DELHI  
Represented by: Mr.Ashok Kumar Gar  
State with Investi  
person (through vi

CORAM:  
HON'BLE MS. JUSTICE MUKTA GUPTA  
ORDER

% 08.01.2021 The hearing has been conducted through Video Conferencing.

1. By this petition, the petitioner seeks bail in case FIR No. 422/2018 registered at P.S.Pandav Nagar for the offences punishable under Sections 302/201/120B/34 IPC on the complaint of Sonu Kumar.

2. The above-noted FIR emanates from a PCR call which was received on 16th December, 2018 and recorded vide DD No.21A at P.S.Pandav Nagar stating that "Near Ahlcon Public School, Peer Wali Gali, my brother has murdered". On reaching the spot, police found a headless dead body without undergarments in the bushes/tall grass. The head of the body was found at a distance from the body in the bushes. The body appeared to be dead for 6-7 days. The informant Sonu Kumar identified the head and headless body to be that of his real brother Bablu Kumar aged 22 years.

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3. Sonu Kumar stated that his brother Bablu Kumar was a Tattoo artist and on 10th December, 2018 at about 9.30 pm, he saw his brother Bablu Kumar alongwith Ankit Sharma, the petitioner herein, Prashant Mishra and Indrajit @ Bobby near Peer Wali Gali/place of occurrence. On that day, his brother Bablu Kumar did not return home till 10 pm and thereafter, he tried to search his brother Bablu Kumar here and there but he could not find him. Lastly, he found his brother Bablu Kumar at Delhi Jal Board park and found the headless dead body and head of his brother between bushes and informed about the same by making a call to PCR.

4. As Sonu Kumar has expressed his suspicion on Prashant Mishra, Ankit Sharma and Indrajit @ Bobby, three of them were interrogated and arrested on 17th December, 2018. During the interrogation, as per the disclosure statements, Prashant Mishra stated that deceased Bablu Kumar borrowed 15,000/- from him to purchase a Tattoo machine but had not returned the money despite repeated calls to him. Since Prashant Mishra wanted the money as he was planning to go to Jaipur permanently due to the retirement of his father, Prashant Mishra informed this to his friends Ankit Sharma and Indrajit @ Bobby. It is their case that in the intervening night of 10th/11th December, 2018, Bablu Kumar was called and he consumed the liquor and while he was under the influence of liquor, Prashant Mishra and Indrajit @ Bobby stabbed him whereas Ankit Sharma caught hold of him.

5. Pursuant to the disclosure statement made, clothes of Ankit Sharma and two knives were recovered at the instance of the three accused. The DNA profiling conducted by the FSL reveals that the blood found on the pant of Ankit Sharma tallied with that of the deceased. Further, as per the Signing Date:08.01.2021 23:14:09 This file is digitally signed by PS to HMJ Mukta Gupta post-mortem report, the injuries 1 to 21 were possible by the two weapons of offence i.e. the two knives. Though one Ankit Gupta, a formal witness has been examined by the Trial Court, however, till date, Sonu Kumar could not be examined for the reason, repeated adjournments were sought and when he appeared in the witness box also, he stated that he was unwell.

6. Learned counsel for the petitioner states that the three pieces of evidences with the prosecution relies to claim that the petitioner is involved in the murder of Bablu Kumar are; firstly, the last seen evidence of Sonu Kumar on 10th December, 2018 at around 9.30 pm; secondly, the joint recovery of weapons of offence from the three accused and thirdly, the blood stains on the pant of the petitioner which tallied with that of the deceased. Learned counsel for the petitioner, states that even these three circumstances do not make out a complete chain and the links of investigation being drastically weak, no case for offence punishable under Section 302 IPC is made out.

7. As regards the last seen evidence is concerned, learned counsel for the petitioner has drawn the attention of this Court to the post mortem report which was conducted on 17th December, 2018 at 12.15 pm. As per the post mortem report, time since death was 48 to 72 hours. Thus, as per the post mortem report, the time when the murder was committed was somewhere from the midnight of 14th/15th December, 2018 to the Noon of 15th December, 2018. In this situation, learned counsel for the petitioner states that the prosecution pressing the last seen evidence in the form of the statement of Sonu Kumar is liable to be rejected as the same does connect the petitioner to the offence committed.

8. As noted above, Sonu Kumar, the brother of Bablu Kumar had stated Signing Date:08.01.2021 23:14:09 This file is digitally signed by PS to HMJ Mukta Gupta that he has seen the petitioner along with the two accused in the company of his brother Bablu Kumar on 10th December, 2018 at 9.30 pm. However, the murder did not take place immediately thereafter and as per the post-mortem report, it is either on the intervening night of 15th December, 2018 or in the forenoon of 15th December, 2018. Despite the fact that Sonu Kumar stated, he searched for his brother, it is strange that despite having last seen his brother Bablu Kumar in the company of the petitioner and the two

accused, no search for the brother was conducted at their residences. No report was lodged about the missing of the brother Bablu Kumar from 10 th December, 2018 to 16th December, 2018 when Sonu Kumar makes a call after seeing the dead body of his brother.

9. As regards the two weapons recovered, admittedly, the same are based on joint disclosure and thus, at this stage, this Court is not commenting on the same as it would be for the Trial Court to form an opinion as to from whom the recovery was first made of the concerned weapons of offence.

10. This brings to the Court to the last piece of evidence i.e. the blood stained pant. Undoubtedly, at this stage, the fact that the blood stains of the deceased were found on the pant of the petitioner herein and a DNA report confirmed the presence of the blood of the deceased on the pant is an incriminating evidence. He initially did not come for examination However, considering the fact that the last seen evidence of Sonu Kumar in the absence of any further investigation, whether Bablu Kumar stayed in the custody of the petitioner and the co-accused for nearly five days, this Court finds that it is a fit case for grant of bail to the petitioner. Further, till date, Sonu Kumar who was required to be examined, has not been examined. On Signing Date:08.01.2021 23:14:09 This file is digitally signed by PS to HMJ Mukta Gupta one date, when he turned up, he stated that he was unwell and was thus, avoiding examination. The petitioner has been in custody for the last more than two years and there is no other involvement of the petitioner.

11. Consequently, the petitioner is directed to be released on bail on his furnishing a personal bond in the sum of 25,000/- with two surety bonds of the like amount to the satisfaction of the learned Trial Court, further subject to the condition that in case the petitioner changes his residential address, the same will be intimated to the learned Trial Court by way of an affidavit and the petitioner will not leave the country without the prior permission of the Court concerned.

12. Petition is disposed of.

13. Copy of the order be conveyed to the Superintendent Jail and also be uploaded on the website of this Court.

MUKTA GUPTA, J.

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