

**Bail Application No.2963/2006**

## VERSUS

% DATE OF DECISION: 28.09.2007

**\* Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y
2. To be referred to the Reporter or not? Y
3. Whether judgment should be reported in Digest? Y

FIR No.875/05 dated 24.12.2005  
under Sections 302/120-B/34 IPC read with  
Sections 25/27 of the Arms Act  
PS Najaf Garh.

1. Neelam is an accused in the afore-noted FIR. She seeks regular bail.
2. Neelam was apprehended and was sent to judicial custody on 17.1.2006. On 20.9.2006 during hearing of the instant bail application she was admitted to bail for a period of 2 months from the date of her release. Reason was that Neelam is a widow and had 2 minor children for whom arrangements had to be made.

3. Thereafter, from time to time interim bail was extended. Interim bail granted to Neelam was lastly extended vide order dated 21.9.2007 till today i.e. 28.9.2007.

4. Case of the prosecution is that Neelam's sister Birmati had a problem with the deceased Virender Yadav who wanted to establish a factory on land which was claimed by Birmati. That Neelam helped Birmati in liquidating Virender Yadav by making available the finances to the paid assassins.

5. In other words, Neelam is stated to be a conspirator along with her sister and the hired assassins to kill Virender Yadav.

6. Evidence marshalled by the prosecution against Neelam is as under:-

- (a) Statement of one Satpal recorded on 13.1.2006 informing the police that his sister Savita was married in village Paprawat and for said reason he used to visit the village. His brother-in-law Baljit was the maternal uncle of deceased Virender Yadav. According to Satpal he had gone to village Paprawat on 25.11.2005 and learnt that Virender Yadav wanted to establish a factory on a plot which was objected to by Birmati. He went to the house of Birmati on 25.11.2005 where he found another lady apart from Birmati in company of 3 boys who were discussing the problem of Birmati. He

stated that from the talk being held by Birmati, the lady and the 3 boys, he gathered that they were resolving that something would have to be done to prevent Virender Yadav from establishing a factory on the plot. That he had to revisit the village on 10.12.2005 and learnt that the dispute between Birmati and Virender Yadav had not been resolved. He went to the house of Birmati to talk to her in respect of the issue. When he went to the house of Birmati he found Neelam in the company of 3 boys named Naveen, Arvind and Ashok. He carefully listened to what they were talking. He heard Birmati tell Neelam that there was no impact on Virender Yadav of the threat given to him by Naveen and Arvind and that time had come to dispatch Virender Yadav. To quote from the statement of Satpal, he stated to the police:-

“Neelam stated that there was no effect on Virender @ Pappi of the threat given by Naveen and Arvind. The time has come to dispatch Virender. He has to be removed from the path.”

- (b) The next evidence marshalled by the prosecution against Neelam is a statement of Ajit Singh recorded under Section 161 Cr.P.C. on 15.1.2006. According to Ajit Singh, Neelam and Birmati had made an extra judicial confession to him that they had liquidated Virender Yadav.

- (c) Lastly, is the purported disclosure statement of the co-accused i.e. the assailants that Neelam had provided them with the requisite finances.

7. It is not in dispute that Ajit Singh is the maternal uncle of the deceased and is in police service.

8. It is relevant to note that deceased Virender Yadav was murdered on 24.12.2005.

9. It is urged by learned counsel for the petitioner that Ajit Singh being the maternal uncle of the deceased it is highly improbable that the petitioner would go to him and make an extra judicial confession. Counsel further submits that conspiracies are hatched in the secrecy of darkness and not in the manner as disclosed to the police by Satpal. Counsel urges that it is against human conduct to call hired assassins to the house and discuss with them the plan to kill a person with doors open, permitting any person to overhear the conversation. Lastly, counsel urged that petitioner was not the beneficiary from the death of Virender Yadav and that being a widow with 2 minor children her energies would be expected to be devoted to the welfare of her children and not go about meddling in the affairs of her sister.

10. Learned counsel for the State opposes the bail urging that petitioner is involved in a serious offence.

11. Pertaining to granting bail in non-bailable offences, in the decisions reported as AIR 1962 SC 253 State vs. Capt. Jagjit

Singh and AIR 1978 SC 179 Gurcharan Singh vs. State (Delhi Admn.) it was observed that apart from the nature and seriousness of the offence which has to be kept in mind while deciding an application for bail in a non-bailable offence, the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with and lastly the larger interest of the public or the State are some of the facts to be kept in mind.

12. Witnesses of the prosecution are males, one of whom is in the police service. Petitioner is a widow with 2 minor children. There is hardly any possibility of her threatening the witnesses of the prosecution or tampering with them. She has agricultural land in her village. Her minor children have to be looked after. She has roots in the society. There is hardly any apprehension of petitioner absconding from justice.

13. The nature of evidence which is likely to emerge has been briefly noted by me in the form of the statements recorded by the police and the inherent probabilities of the evidence as urged and evaluated by learned counsel for the petitioner.

14. Noting that the petitioner is a widow and has 2 minor children to care for and the fact that trial would take considerable time I find special equities and circumstances to direct that petitioner should be released on bail pending trial.

15. Noting that pursuant to order dated 28.9.2006 petitioner has been released on interim bail on her furnishing a personal bond in sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Trial Court and that she has not misused her liberty, I direct that the personal bond and surety bond already furnished by the petitioner be accepted by the learned Trial Judge to admit the petitioner to regular bail pending trial.

16. Copy of this order be supplied dasti under signatures of the Court Master to learned counsel for the petitioner.

17. No costs.

September 28, 2007  
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PRADEEP NANDRAJOG, J.