

IN THE HIGH COURT OF DELHI AT NEW DELHI

**CRL.M.A.10685/2008 (delay) in CRL.REV.P. 497/2008 &
CRL.M.A.10683/2008**

Reserved on : 29th April 2009

Decision on : 29th May 2009

SALONI ARORA Petitioner
Through: Mr. D.S.Kohli, Advocate.

versus

STATE Respondent
Through: Mr. Sanjay Lao, APP.

BAIL APPLN. 1169/2008

DEEPAK SINGH Petitioner
Through: Mr.B.S.Rana with
Mr.Amit Ahlawat and
Mr. Raj Singh, Advocates.

versus

STATE Respondent
Through: Mr. Sanjay Lao, APP.

**CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR**

1. Whether Reporters of local papers may be
allowed to see the judgment? No
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

**JUDGMENT
29.05.2009**

S. Muralidhar,J.

CRL.M.A.10685/2008(delay)

For the reasons stated therein, the application for condonation of delay is allowed and the delay in re-filing the revision petition stands condoned. The application stands disposed of.

Crl. Rev. P. No. 497/2008 & Bail Appln. No.1169/2008

1. Criminal Revision Petition No. 497 of 2008 by Saloni Arora is directed against the order dated 22nd November 2007 passed by the learned Additional Sessions Judge (ASJ) Delhi holding that offences under Sections 120-B/364/365/302/201 IPC are prima facie made out against the accused persons in FIR No.133 of 2006 registered at P.S: Anand Vihar. In addition, it was held that the offences punishable under Section 25/27 of the Arms Act were also made out against the accused Deepak, the offence under Section 411 IPC was also made out against accused Jeetender, and the offence punishable under Section 182 IPC was also held to be made out against the petitioner Ms. Saloni Arora.

2. Bail Application No. 1169 of 2008 is by Deepak Singh seeking regular bail in the same case. He has been in judicial custody since 3rd September 2006.

3. The case of the prosecution is that Shri Sahab Singh s/o Shri Bode Singh, resident of House No. 32/91 Gali No.10, Bhikam Singh Colony, Delhi informed the police that his brother-in-law Shailender Singh who was taking coaching from the I.I.H.T. Computer Institute, Gali No.11, Hargovind Enclave, Delhi and residing with him had gone to the Institute on the morning of 12th June 2006 but had not returned till 15th June 2006. The case was registered at P.S. Anand Vihar. On 21st June 2006 Sahab Singh made a supplementary statement that on 11th June 2006 two to three calls received on mobile

phone No. 9873288984 (maintained by Sahab Singh) from two other mobile phone Nos. 9818391164 and 9811117235. When Sahab Singh enquired from Shailender Singh about the calls, the latter informed him that these were from Jitender Singh, r/o Aligarh and Saloni Arora, the petitioner herein. Shailender Singh is supposed to have further informed Sahab Singh that on 12th June 2006 he would go along with Jitender, Deepak and Adesh Chaudhary to Hapur. On 12th June 2006 Shailender Singh made a call to Sahab Singh's house informing that he was in the company of above said persons and would return to home late. In a supplementary statement Sahab Singh informed the police that Prahlad Singh his brother-in-law had informed him that Shailender Singh was in love with a girl named Deepshikha @ Gudiya d/o Satbir Singh, r/o Aligarh (UP) and wanted to marry her. The family of Deepshikha was not in favour of this marriage and this fact was informed by her to Prahlad Singh on phone. Deepak is a co-accused and petitioner in Bail Appln. No.1169 of 2008 and cousin brother of Deepshikha. Jitender is her brother. Sahab Singh suspected that Deepak and Jitender Singh, both residents of Aligarh, Adesh Chaudhary, r/o Ghaziabad and Smt. Neera, the second mother of Deepak, a resident of Delhi had kidnapped Shailender Singh. Non-bailable warrants for the arrest of Deepak, Jitender and Adesh Chaudhary were obtained from the court.

4. On 16th July 2006, Jagdish Prasad, father of Shailender Singh handed over a photocopy of a letter of recovered from the bag of

Crl. Rev. (P) No.497/08 & Bail Appln. No. 1169/08 ***Page 3 of 21***

Shailender Singh to Head Constable (HC) Rakesh Bhati of P.S: Anand Vihar. This letter was addressed to the District Magistrate, Aligarh by Deepshikha @ Gudiya in which she narrated the entire story of her being in love with the Shailender Singh and that both of them were receiving threats from her family members and feared that her maternal uncle Tejvir Singh @ Guddu who was a desperate criminal would kill both of them.

5. The investigation of the case was subsequently transferred to a Special Cell, Lodhi Colony. The statements of Sahab Singh, Prahlad Singh and Jagdish Prasad were recorded. Prahlad Singh told the police that on 14th June 2006 Deepshikha called on mobile Nos. 9873288984 and 9873404088 stating that Shailender Singh had been abducted by her brother Jitender, Deepak (her mama's son and cousin) and Adesh Chaudhary. The call details of the mobile numbers of the suspected persons were examined.

6. On 3rd September 2006 on receiving secret information, a raid was conducted in Agra and the accused Deepak Singh and Jitender were arrested. They disclosed that they with the help of co-accused Adesh Chaudhary and Saloni Arora abducted and killed Shailendra Singh in the Wagon R Car No. DL 7CD 8060 belonging to Saloni Arora, who was the girl friend of Deepak Singh. According to the prosecution, the two accused Deepak Singh and Jitender disclosed that as part of the conspiracy, long prior to the actual date of the incident, i.e., 12th

June 2006 Saloni Arora had been asked to trap Shailender Singh in

the net of friendship. Saloni Arora contacted Shailender Singh on his mobile phone No.9213733439 from the mobile phone No. 9818391164 given to her by Deepak Singh and Jitender.

7. On 12th June 2006 Saloni Arora lured Shailender to come with her in her Wagon R Car to Shipra Mall, Ghaziabad, UP where the other accused persons, viz.,Deepak, Jitender and Adesh were waiting in a Santro Car No. DL-3C-AB-3273. After reaching Shipra Mall, Saloni Arora had handed over her car No.DL-7CD-8060 to all the three accused persons. Shailender Singh continued sitting in the Wagon R car and she returned in the Santro car. Thereafter it is alleged that the accused persons, Deepak, Jitender Chaudahry and Adesh Chaudahry killed Shailender Singh in the Wagon R car by firing at him inside the moving car and later strangled him. The dead body of Shailender Singh was thrown in Ganga Nahar in the area of Murad Nagar, UP. Deepak Singh disclosed that on the same evening, Saloni Arora enquired about the fate of Shailender Singh from Deepak who told her that Shailender Singh is no more. On 14th June 2006 Deepak deposited the Wagon R Car for service/dry-cleaning with M/s Bagga Link Motors, Patparganj Industrial Estate, Delhi, giving a false name of Tushar. Saloni Arora collected the car after servicing on the same evening. Deepak disclosed that Saloni Arora's father Raman Arora had deposited Rs.20,000 in his Standard Chartered Bank account and a further sum of Rs.47,000 to help him abscond and that he also stayed in Raman Arora's hotel after the murder.

8. The prosecution states that at the instance of Deepak Singh, Saloni Arora was arrested from her house at L-12, Indiraprastha Apartment, Patparganj, Delhi on 4th September 2006. At her instance the Wagon R car was recovered and from her residence three mobile phones along with three SIM cards were recovered. She is alleged to have disclosed that she was provided the SIM No. 9818391164 by Jitender Chaudhary cousin of Deepak Singh. She is alleged to have made several calls on Shailender Singh's mobile phone Nos. 921373349 (from her mobile No. 9811117235). On 12th June 2006 she made a call on the phone of Shailender Singh from the SIM given to her by Jitender. She asked Shailender Singh to come to Hassanpur, near Patparganj DTC Bus Depot. Then she took him in her Wagon R car and reached Shipra Mall, Ghaziabad and handed over Shailender Singh to all three accused persons and she returned in the Santro car. She also disclosed that she destroyed her SIM Card 9811117235 on 16th June 2006.

9. On 8th September 2006, the Santro car was recovered at the instance of accused Deepak from the parking area of Prashant Apartment, I.P. Extension, Delhi. A search of the Santro car revealed one country made revolver of .32 bore along with 3 live, 2 fired cartridges beneath the mat of driver's seat. This weapon was allegedly used in the offence. One NCR (non-cognizable report) of SIM No. 9811117235 of Saloni Arora lodged at PS Anand Vihar was also recovered. However she later disclosed that she had destroyed the SIM. It is alleged that she deliberately destroyed the piece of

evidence and lodged a false report in this regard at PS Anand Vihar. The Santro car which was recovered belonged to Adesh Chaudhary.

10. Accused Deepak on 8th September 2006 identified the Maruti Service Station, M/s Bagga Links Motors Ltd., Patparganj, Industrial Estate, Delhi where he deposited the Wagon R car in which the crime was committed. He had left the said car there for servicing and dry-cleaning in the name of Tushar. The record of Bagga Links Motors Ltd. dated 14th June 2006 was checked and it confirmed that the said Wagon R car was deposited by Tushar. The supervisor of the servicing department Shri Sri Niwas Sharma identified accused Deepak as Tushar who deposited the car on that date for servicing and dry-cleaning. He stated that when the car was deposited for service it had blood stains on the seats and mats. When he enquired from Tushar (accused Deepak) about it he was informed by Tushar that some accident had taken place with the car. On 15th September 2006, a team of experts from the CFSL/CBI, New Delhi inspected the Wagon R car and detected four samples of blood and two fired lead of bullets and one small piece of lead of bullet and gun shot residue. On 16th October 2006, Adesh Chaudhary of Ghaziabad was arrested and at his instance one mobile phone instrument in which the SIM card of mobile No. 9910477947 used at the time of kidnapping and murder of Shailender Singh was recovered. A handwritten letter in Hindi addressed to the District Magistrate, Aligarh by Deepshikha @ Gudiya in which she apprehended threat to the lives of herself and

Shailender Singh by her maternal uncle Tejvir Singh (who is
CrI. Rev. (P) No.497/08 & Bail Appln. No. 1169/08 *Page 7 of 21*

incidentally the father of Deepak Singh) and her family members was recovered.

11. On interrogation Deepshikha disclosed that Tata Mobile phone No.9212201441 was gifted to her by Shailender Singh for her personal use. This mobile phone was in the name of Shailender Singh. On that phone they used to talk to each other. On 11th June 2006, she talked with Shailender Singh from the cell phone to the mobile phone Nos. 9213733439, 9873288984 and 9873404088. On 15th June 2006 she came to know through one of her friends that Shailender Singh had been abducted by her brother Jitender Chaudhary and Deepak Singh and Adesh Chaudhary. When she enquired from them they threatened her to not utter a single word. Her brother Jitender Chaudhary later snatched the Tata Mobile phone No. 9212201441 and destroyed it.

12. The call details of all the mobile phones were thoroughly analyzed by the Investigating Officer (IO). A charge sheet was filed on 30th November 2006. By the impugned order dated 22nd November 2007 order on charge was passed and by the order dated 5th March 2008 charges were framed by the learned ASJ against the accused as indicated hereinbefore.

13. On behalf of petitioner Saloni Arora it is submitted by Mr. D.S. Kohli, learned Advocate that in the impugned order, the learned ASJ has barely noticed the submissions made on her behalf and has dealt

with them very cursorily. In para 6 the case of the prosecution that Saloni Arora had misled the IO by stating that she had lost her SIM card when in fact she destroyed it was noted. The second circumstance was that her father had spent a substantial sum on accused Deepak to help him abscond. Barring this, there was no discussion in the impugned order on charge about the precise case concerning Saloni Arora. It is submitted that the case against Saloni Arora at the highest could be that of destroying the SIM card and offence under 182 IPC may be attracted. However, she was not part of the conspiracy to murder Shailender Singh and therefore could not be charged under Section 120B IPC read with Section 302 IPC. It is further submitted that as far as Saloni Arora is concerned apart from some mobile phone records and the fact that the Wagon R car belonged to her there is no evidence to link her to the murder of Shailender Singh and the conspiracy for the commission of the murder itself. It is submitted that the mere call records by themselves do not reflect any conspiracy between the accused persons. It is further submitted that the evidence regarding her father having deposited monies in Deepak Singh's accounts to help him abscond is also not supported by the counterfoils of the bank deposit slips. It is submitted that she never tried to abscond and in fact cooperated with the police. While her friendship with Deepak Singh is not denied it is submitted that this does not automatically mean that she would be part of all the activities in which Deepak Singh is involved. She had no personal enmity with Shailender Singh. It is accordingly submitted that the framing of the charges against Saloni Arora for

offences under Sections 120 B read with 302 IPC, 201/120B IPC, 364/120 B IPC and 365/120 B IPC was not justified.

14. Mr. B.S. Rana, the learned counsel appearing for Deepak Singh submitted that the evidence recorded of the prosecution witnesses showed that they were trying to improve their case from time to time. The improvements were material and rendered the version of these witnesses unworthy of belief. PW3 spoke about receiving a call from Saloni Arora on the mobile of Shailender Singh on 11th June 2006. He however admitted that he had not stated so to the police earlier. The evidence about searching the bag of Shailender Singh on 20th June 2006 and finding a letter addressed by Deepshika to him was also not stated at the time of investigation. The portion about their learning that the mobile phone No. 9818391164 had been lost and mobile phone No. 9811117235 had become non-functional on 13th June 2006 was also an improvement over the earlier statement. It is submitted that this is a case where the body of the victim has yet to be recovered and the case is entirely based on circumstantial evidence. In the first statement made by Sahab Singh to the police he didn't say about the call received on 14th June 2006 by Prahlad Singh from Deepshikha that Deepak, Jitender and Adesh Chaudhary had taken away Shailender. That information was given to the police only when the supplementary statement was made on 23rd June 2006. It is submitted that if on 14th June 2006 itself this information was available with Prahlad Singh, it is surprising that the police was not informed of it earlier.

15. Mr. Rana also criticized the alleged recovery of the wrist watch and the ring stated to belong to the accused. In his cross-examination, Sahab Singh admitted that the said wrist watch and the ring were seen by him for the first time in the police station and later on in the court. It was submitted that the key public witnesses have already been examined. There could be no apprehension of any of the remaining witnesses being threatened and therefore there was no justification in denying bail to the petitioner Deepak Singh. It was further pointed out that Saloni Arora was granted bail on 22nd November 2006 and Adesh Chaudhary on 12th April 2007 and therefore on parity Deepak Singh should also be released on bail.

16. On behalf of the State Mr. Sanjay Lao, the learned APP has taken the court through the entire case of the prosecution step by step. The family of Deepshikha was apprehensive that Shailendra was eyeing the large number of properties owned by them and for that reason befriended Deepshikha and wanted to marry her. They resented the relationship but were unable to persuade Deepshikha to stop seeing Shailendra. Therefore a criminal conspiracy to eliminate him was hatched. In particular Mr.Lao points out that the disclosures made by Deepak Singh led to the recoveries of both the Wagon R car in which the murder of Shailender Singh took place as well as the Santro car which was used by the accused. Details provided by Deepak Singh about having given the Wagon R car for service and dry-cleaning to M/s Bagga Link Motors under the false name Tushar has been completely proved by the evidence collected pursuant to such

disclosure and the recovery of ballistic evidence in the form of bullets lead and gun shot residue confirmed the killing of Shailender Singh by using a fire arm. The mobile phone records also substantiated the involvement of the accused in the larger conspiracy to commit the murder of Shailender Singh. Deepshikha's letter to the District Magistrate and her statements made during the investigation also confirmed that she was having an affair with deceased Shailender Singh which was objected to by her cousin Deepak Singh and maternal uncle Tejvir Singh. He also points out that the Deepak Singh's father Tejvir Singh is a known criminal who is wanted in a large number of cases. Shailender Singh was eliminated on account of the objection of Deepak Singh's father to the affair of Deepshikha with Shailender Singh. The motive behind the murder of Shailender Singh by Deepak Singh and his friends is clearly established. Mr. Lao further points out that the evidence is at a very critical stage and certain important public witnesses remain to be examined. At this stage, the grant of bail to Deepak Singh would not be safe.

17. As regards Saloni Arora, it is submitted by Mr.Lao that she deliberately misled the IO by stating that her SIM card had been destroyed. She had in fact destroyed the evidence by lodging a false missing report in the form the NCR. Later the SIM card which was reported missing was in fact recovered from her residence. It is submitted that given the background of Deepak Singh, when he wanted Shailender Singh to be brought to the Shipra Mall, Saloni

Arora would have definitely known that this was only with a view to

eliminate Shailender Singh. The fact that the Wagon R car belonged to her, and was recovered at her instance and she went to collect it after it was left for servicing by Deepak Singh under a false name, showed that Saloni Arora was very much part of the criminal conspiracy to eliminate Shailender Singh. Mr. Lao also refers to the fact that Deepak Singh after the commission of the murder went on a pilgrimage and money was provided to him by Saloni Arora's father Raman Arora. This also showed that that the Saloni Arora was very much part of the conspiracy to abduct and murder Shailendra Singh.

The order on charge as regards Saloni Arora

18. The above submissions have been considered by this Court. First this court proposes to deal with the submissions regarding Saloni Arora being charged with the offence of criminal conspiracy to commit the abduction and murder of Shailender Singh, i.e., for offences punishable under Sections 302/120B, 364/120 B, 365/120 B, 201/120 B and 182 IPC.

19. The scope of a revision petition filed challenging an order on charge has been settled in a large number of decisions of the Supreme Court. In *Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4* (SCC, p.9) the following principles were explained as guiding the function of the criminal court while passing an order on charge:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

20. In *Dilawar Balu Kurane v. State of Maharashtra (2002) 2 SCC 135*, while reiterating the above principles it was held (SCC, at p. 140):

“by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the

accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

21. Keeping the above law in mind when the records of the present case are examined with particular reference to the role of Saloni Arora, it is seen that the case of the prosecution is based on circumstantial evidence. The main circumstance is that she was the girl friend of Deepak Singh and was doing his bidding in bringing Shailendra to them. It is stated that she made calls to Shailender Singh on 11th and 12th June 2006 to bring him to the Shipra Mall. There are calls made from her mobile phone to some of the other accused. However, the actual contents of the mobile phone conversations are not available to the prosecution. The record of the calls made from her mobile phones to the other accused or to Shailender Singh himself cannot by itself prove her role in the conspiracy. Although this circumstance might give rise to a suspicion that she may have played a part in the criminal conspiracy but it is certainly not grave enough to make out a strong case of suspicion for framing charges for the offences under Section 120B read with Section 302 IPC.

22. At this juncture it must be noted that there is no evidence adduced

by the prosecution to prove the motive for the crime as far as Saloni Arora is concerned. The case of the prosecution is not that at any time she was having any enmity with the Shailender Singh. It is stated that she picked him up at the Patparganj Bus Depot in her Wagon R car to Shipra Mall and thereafter she left the place in the Santro car. She does not appear to have played any part in the actual commission of the offence of abduction/kidnapping and murder of Shailendra Singh. In fact Deepshikha named the other accused but not Saloni Arora.

23. A careful examination of the record shows that the recovery of her Wagon R car was not really at the instance of Saloni Arora. The arrest of Deepak Singh on 3rd September 2006 led the police to Saloni Arora and the car was recovered from the parking lot of the apartments where she resided. The fact of the Wagon R car having been used was disclosed by Deepak Singh even before the police arrested Saloni Arora. Therefore this seizure of the Wagon R car was not really pursuant to a disclosure made by her. The circumstance concerning recovery of blood samples and gun shot residue from the Wagon R car is again not a circumstance explaining the role of Saloni Arora. The use of the said car by Deepak Singh and other accused does not ipso facto make Saloni Arora part of the criminal conspiracy to eliminate Shailendra Singh. Although the Wagon R car belonged to Saloni Arora, the fact of its use in the crime and its recovery was in fact at the instance of Deepak Singh. She also was

not part of the attempt by Deepak Singh to cause to disappear the

evidence of the commission of the murder, for e.g, getting the Wagon R car in which it took place to be serviced and dry cleaned to remove traces of the blood and gun shot residue. The mere fact that Saloni Arora picked up her car from the service station where Deepak Singh had left it for servicing under a false name, also cannot make her part of the conspiracy to commit the abduction and murder of Shailendra Singh. Being a case based on circumstantial evidence the evidence gathered must raise a strong suspicion against each of the accused and not a mere suspicion.

24. It may be noticed that apart from the statements made by the accused during custody, there is no other independent material to indicate that Saloni Arora played a part in the conspiracy to kill Shailendra. The said statements would be inadmissible to the extent they are inculpatory of the maker and other accused and made during police custody. There is also some force in the submission of the learned counsel for Saloni Arora that it was unnatural for a person who was aware of the conspiracy to eliminate Shailender Singh to ask from Deepak Singh as to what has happened to Shailender Singh on 12th June 2006. That is not indicative of the mind of a conspirator who is part of the plan to eliminate the deceased.

25. The question as far as Saloni Arora is concerned is whether she was aware, when she brought Shailendra to Shipra Mall, that he was going to be eliminated by Deepak Singh and other co-accused? The

further question is whether, apart from the statements made in

custody by the co-accused, there is any independent material to raise a grave suspicion against her in this regard? In the considered view of this court the material on record when carefully examined does not enable it to give an answer in the affirmative to the above questions.

26. The circumstance concerning the deposit of money in the bank account of Deepak Singh by Saloni Arora's father, even if accepted, took place after the commission of the offence. It cannot therefore be said to be an act in furtherance of the conspiracy to eliminate Shailender Singh. Moreover as pointed out by the counsel for the Saloni Arora the remittances of cash in Deepak Singh's account made on 24th June (10,000/-), 5th July (36,000/-) and 25th August 2006 (20,000/-) do not add up to the figures mentioned by Deepak Singh. The deposit slips do not bear any signature of Raman Arora and the handwriting thereon has not been tallied with his. There is no evidence to show that it was Raman Arora who had deposited the said money. Further, this cannot be said to be in furtherance of the criminal conspiracy to kill Shailendra Singh. The above circumstances when viewed collectively also do not enable the court to form a strong suspicion about the commission of the offences of abduction/kidnapping and murder and destruction of evidence of murder by Saloni Arora.

27. The material concerning the destruction of the SIM card however does raise a strong suspicion that Saloni Arora gave an NCR about her SIM card having been lost and later it was recovered from her

residence. The submission that this could be a duplicate SIM card cannot be examined at this stage and will have to await the trial. There is therefore material to justify the framing of charge against her for the offence under Section 182 IPC.

28. For the aforementioned reasons, this Court is of the considered view that the materials on record do not justify charging the petitioner Saloni Arora with the offences under Sections 302/120B, 364/120 B, 365/120 B. However, there is material for her to be tried for the offence under Section 182 IPC. The impugned order on charge dated 22nd November 2007 and the order dated 5th March 2008 framing charges passed by the learned ASJ would stand modified accordingly as far as the petitioner Saloni Arora is concerned.

Bail Application of Deepak Singh

29. The court next proposes to consider the bail application of accused Deepak Singh. The above discussion shows that Deepak Singh is in fact involved in a grave offence of the murder of Shailender Singh. It is his cousin sister Deepshikha who was having an affair with Shailender Singh. Her family, and in particular Deepak Singh's father and Deepak Singh himself resented this. They feared that Shailendra Singh was eyeing their property. Therefore Deepak Singh hatched the criminal conspiracy with the help of his co-accused to eliminate the deceased. He used his girl friend Saloni

Arora to bring Shailender Singh to Shipra Mall, Ghazaibad. The

disclosure statement made by him led to the recovery of the Wagon R car which was found with incriminating evidence that Shailender Singh was murdered in said car by using fire arm. He tried to destroy the evidence available in the car by giving it for servicing after the commission of the crime by using a false name. This has been substantiated during investigation by questioning the service station supervisor. There is therefore more than sufficient material to draw a grave suspicion against Deepak Singh for the aforementioned offences of kidnapping/abduction and murder and of causing the evidence of the murder to disappear.

30. The so-called contradictions and improvements pointed out by Mr.Rana in the evidence of the prosecution witnesses will have to await detailed evaluation at a later stage by the trial court. They prima facie do not appear to this Court to render unbelievable the entire prosecution case. The circumstantial evidence gathered will have to be seen as a whole to come to any definitive conclusion in that regard.

31. There are ten more public witnesses remaining to be examined. During this period, Jagdish, the father of the deceased Shailendra was murdered on 4th January 2008 purportedly at the behest of Tejvir Singh. The prosecution has concrete information regarding the threats received by other witnesses. These are factors that weigh with this Court in declining to entertain the prayer for release of Deepak

Singh on bail at this stage. Accordingly, the bail application of
Crl. Rev. (P) No.497/08 & Bail Appln. No. 1169/08

Deepak Singh is rejected at this stage.

32. It is clarified that the observations made in this order are tentative and are not intended to influence the opinion to be formed by the trial court on an independent assessment of the evidence at any of the later stages of the present case. It will also not preclude Deepak Singh from applying to the trial court again at a later point in time to seek regular or interim bail on showing sufficient changed grounds.

33. Accordingly, the bail application stands dismissed. The revision petition of Saloni Arora is disposed of in the aforementioned manner and the charges framed against her will stand modified in the manner indicated.

34. The trial court record be returned immediately to the concerned court together with a certified copy of this order.

S. MURALIDHAR, J.

MAY 29, 2009

ak