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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010002792026

+ **BAIL APPLN. 65/2026**

NEERAJ @ PRASHANT

.....Petitioner

Through: **Mr. Anil Vyas, Mr. Ashwani Kumar
& Mr. Heman, Advocates.**

versus

THE STATE NCT OF DELHI

.....Respondent

Through: **Mr. Shoaib Haider, APP.
Insp. Kishore Kumar PS Kalindi Kunj**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **06.08.2026**

1. This application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") seeking regular bail to the applicant in connection with FIR No. 91/2019, registered at Police Station Kalindi Kunj, Delhi, for the offences punishable under Sections 302/201 of the Indian Penal Code, 1860 ("IPC").
2. As per the case set up by the prosecution, on 16.03.2019, a secret informer conveyed to the Head Constable (HC), Sharwan, that one Sajjan, a resident of Aali Village, had gone missing since the previous night and had last been seen consuming liquor with the applicant in the forest area of Aali Village. It was further conveyed that the applicant was hiding in the said forest area. HC Sharwan, along with the secret informer, apprehended the applicant from behind the bushes at the said location.
3. Upon interrogation, the applicant is stated to have disclosed that the



deceased used to pass obscene remarks and make lewd gestures towards the applicant's sister, and that, in order to "teach him a lesson", the applicant had invited the deceased to consume alcohol together in the forest. It is alleged that the applicant thereafter took the deceased on his scooty to the bank of the river Yamuna near Kalindi Kunj, inflicted knife blows upon him, and drowned him in the river. He is further stated to have discarded his clothes and the weapon of offence in the Agra canal and abandoned the scooty at the Shaheen Bagh bus stand. At the instance of the applicant, the dead body of the deceased, bearing multiple stab wounds, was recovered from Shiv Ghat, Yamuna.

4. Supplementary disclosure statement of the applicant was thereafter recorded, setting up a materially different version of events, namely, that the killing was a premeditated, group offence. It was highlighted that the co-accused Gyan Prakash had arranged a white-coloured Swift car on 15.03.2019 and other co-accused, namely, Rakesh @ Kachhi was present on the site of the incident. The applicant, along with Rakesh @ Kachhi, is alleged, to have inflicted the fatal knife blows before the body was thrown into the Yamuna. It was on the strength of this supplementary disclosure alone that the remaining co-accused persons came to be arrested on 18.03.2019. The car was seized, and bloodstains were reportedly found therein.

5. The recoveries in the case, namely, the dead body, the weapon of offence, the scooty, the car, and the applicant's own clothes, are all stated to have been effected at the instance of the applicant. Upon completion of investigation, chargesheet came to be filed. It is stated that chargesheet was submitted against five accused persons.



6. The applicant's regular bail application under Section 439 Cr.P.C. was dismissed by the Additional Sessions Judge-06 (POCSO), South-East District, Saket Courts, New Delhi, *vide* order dated 03.01.2026. The Trial Court, while declining bail, held that since it was the applicant's own disclosure statement that first brought the incident to light, he could not be treated as similarly placed to co-accused Rakesh @ Kachhi for the purposes of parity, and further, that notwithstanding the public witnesses having turned hostile, circumstantial evidence continued to exist against the applicant. Aggrieved thereby, the applicant has approached this Court by way of the present, first, application for regular bail.

7. Learned counsel appearing for the applicant submits that he is innocent and he has been falsely implicated in the present case. There is no evidence against him. As of now, only 21 witnesses have been examined out of 53 witnesses. None of the prosecution witnesses have supported the prosecution case. It is contended that even the deceased mother and the other family members have not corroborated the prosecution story. The entire case, according to him, is based on circumstantial evidence and there is a weak possibility of resulting in the prosecution's conviction. The applicant has already undergone more than 7 years incarceration. There is no possibility of early completion of trial and the applicant has no past criminal antecedents.

8. These submissions are opposed by Mr. Shoaib Haider, learned APP for the State, who contends that, having regard to the gravity of the offence, the applicant is not entitled to regular bail. The Investigating Officer, present in Court, informs learned counsel for the State that the deceased's mother was duly served but has chosen not to appear.



9. I have considered the submissions made by learned counsel for the parties and have perused the record.

10. It is well settled that while considering an application for regular bail, the Court is required to be guided by the nature of the accusation, the severity of the punishment in the event of conviction, the nature of the supporting evidence, the reasonable apprehension of tampering with witnesses, and the larger interest of society, without embarking upon a detailed evaluation of the merits as if trying the case itself. In **Ram Govind Upadhyay v. Sudarshan Singh**¹, the Supreme Court held that the grant of bail, though discretionary, has to be exercised judiciously and not “as a matter of course”, and that the Court must record a *prima facie* satisfaction with regard to the genuineness of the accusation.

11. It is equally well settled that bail, and not jail, is the rule, and that pre-trial detention cannot be permitted to assume a punitive character before guilt is established. In **Sanjay Chandra v. Central Bureau of Investigation**², the Supreme Court cautioned that the object of bail is to secure the appearance of the accused at trial, and that detention, howsoever grave the accusation, cannot be resorted to as an anticipatory punishment.

12. There is no eyewitness account of the alleged occurrence on record. The entirety of the prosecution’s case rests upon the applicant’s own disclosure statements, the consequential recoveries, and the testimony of witnesses who have not supported the prosecution version. The law governing the appreciation of a case resting purely on circumstantial evidence is well crystallised. The locus classicus is **Sharad Birdhichand**

¹ (2002) 3 SCC 598.

² (2012) 1 SCC 40.



Sarda v. State of Maharashtra³, wherein the Supreme Court formulated the five “Panchsheel” conditions that must be satisfied before guilt can be said to be established on circumstantial evidence:-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”

13. Parity cannot, by itself, be the sole ground for grant of bail; what is decisive is not merely joinder in the same FIR or chargesheet, but the specific “position”, i.e. the role attributed to the applicant vis-a-vis the co-

³ (1984) 4 SCC 116.



accused already released. In **Sagar v. State of U.P.**⁴, the Supreme Court held that “*parity requires similarity in position, especially the role played in the offence,*” and set aside a bail order where the applicant’s role as instigator was found to be distinct from, and graver than, that of the co-accused with whom parity was claimed.

14. Applying this test, the Trial Court declined parity to the applicant solely on the ground that it was the applicant’s own disclosure statement that first brought the incident to light, and that the co-accused, including Rakesh @ Kachhi, came to be implicated only thereafter. With respect, this distinction does not answer the “position” test. On the prosecution’s own supplementary version, the fatal knife blows are attributed jointly to the applicant and Rakesh @ Kachhi. Their roles, as presently disclosed on the record, are not shown to be distinguishable.

15. This Court, in **Rakesh @ Kachhi v. State (NCT of Delhi)**⁵, while enlarging the co-accused on regular bail, made the following observations in paragraphs 19 to 22:-

“19. A prima facie perusal of the testimonies of PW-2 to PW-6 on record reveals that none of them witnessed firsthand the alleged event of the deceased being taken away or harmed by the accused persons.

20. The petitioner has spent nearly 7 years in custody without even half of the total prosecution witnesses being examined, and all 10 of the public witnesses are stated to have been examined.

21. This Court does not find merit in the State's reliance on the four antecedents of the accused, given that he has been acquitted in all of them and that the latest of these acquittals took place during the year 2013. Furthermore, the prosecution's case appears to be built upon the disclosure statement of co-accused Neeraj, with the FSL report neither returning any findings that directly incriminate nor exonerate the petitioner.

⁴ 2025 INSC 1370.

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22. Lastly, the initial disclosure statement of the co-accused Neeraj made no mention of the petitioner or any of the other co-accused persons, who were only roped in by a supplementary disclosure statement of co-accused Neeraj.”

16. It is alleged that the applicant in order to teach lesson to deceased, namely, Sajjan, who was teasing and making obscene gesture to the applicant’s sister, the conspiracy was hatched and with the assistance of other accused persons, he killed the deceased.

17. It is thus evident that the very order by which co-accused Rakesh @ Kachhi was enlarged on bail proceeds on the footing that the case against him rests entirely upon the applicant’s own supplementary disclosure statement. The evidentiary quality of the material against Rakesh @ Kachhi and against the present applicant is, on this analysis, not merely similar but interlinked. Four of the five chargesheeted accused, including the co-accused whose alleged role in inflicting the fatal injuries is described identically to that of the applicant, already stand enlarged on regular bail. In these circumstances, and without expressing any final opinion on culpability, this Court finds that the applicant has made out a case of parity within the meaning explained in **Sagar** (supra).

18. The applicant has remained in judicial custody since 16.03.2019, a period now in excess of 7 years, during which only 21 out of 53 cited witnesses have been examined. It is well settled that prolonged pre-trial incarceration, particularly where there is no likelihood of the trial concluding in the near future, weighs heavily in favour of the grant of bail, notwithstanding the gravity of the offence alleged. In **Babu Singh v. State of U.P.**⁶ the Supreme Court, held that personal liberty, when curtailed by

⁶ (1978) 1 SCC 579.



refusal of bail, is “too precious a value of our constitutional system” to be negated except upon judicious and not casual exercise of discretion, with “lively concern for the cost to the individual.”

19. This constitutional dimension has been reaffirmed by the Supreme Court in ***Union of India v. K.A. Najeeb***⁷, where it was held that a constitutional court cannot decline to grant bail merely by reason of the statutory rigour of a penal provision where there is no likelihood of the trial being completed within a reasonable time and the accused has already undergone a substantial period in custody, since the right to a speedy trial is an integral facet of Article 21 of the Constitution.

20. In the present case, the trial has been pending since 2019; charges have long been framed; and, at the present rate of examination, no early conclusion of trial is in sight. The applicant has no past criminal antecedents on record. This period of incarceration, taken together with the weakness presently apparent in the circumstantial chain and the position of parity discussed above, tilts the balance decisively in favour of enlargement on bail.

21. Bearing in mind the overall facts and circumstances of the case the applicant is directed to be enlarged on regular bail on such conditions as may be imposed by the learned Trial Court.

22. The application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 6, 2026/ab/nk

⁷ (2021) 3 SCC 713.