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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4656/2026, CRL.M.A. 19392/2026 & CRL.M.A. 19393/2026

DIYA

.....Petitioner

Through: Mr Jatin Sapra and Ms Jahanvi
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State.

Si Vikas Kasana, PS paharganj.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

08.07.2026

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1. Learned counsel appearing for the petitioner seeks to challenge the order dated 29.06.2026 passed by the learned Judicial Magistrate First Class, Tis Hazari Court, allowing the application filed by the Investigating Officer for Test Identification Parade [**'TIP'**] of the petitioner.
2. Learned counsel submits that the impugned order has been passed in gross abuse of the process of law. From day one, the complainant was aware of the identity of the petitioner. The petitioner joined the investigation and thereafter, the dossier was prepared. It is further submitted that there has been a delay of over 15 months from the date of the FIR in seeking the TIP, and despite the petitioner having joined the investigation on multiple occasions in March-April 2026, the application was filed only in June 2026. It is thus contended that when the identity of the petitioner was already disclosed to the complainant, there is no justification for direction of TIP at



this point of time.

3. I have considered the submissions made by learned counsel appearing for the petitioner and have perused the record.

4. The findings rendered by the Court in its impugned order dated 29.06.2026 would reveal that the accused Diya has never been sent to judicial custody, as the accused was granted anticipatory bail.

5. It is also the reason assigned by the Court that the accused is completely unknown to the complainant and the other eyewitnesses of the incident, and her name is nowhere revealed by the prosecution witnesses during the investigation. The relevant paragraph of the trial court reasoning is extracted as under:

“As a matter of record, accused Diya is never sent to judicial custody since she was granted anticipatory bail. Further, it is again the matter of record that the accused is completely unknown to the complainant and the other eye witnesses of the incident and her name is nowhere revealed by the prosecution witnesses during the investigation. Moreover, the registration number of the scooty used by the accused at the time of commission of alleged offence duly seized by the IO during investigation produced by accused Diya, is also not revealed I disclosed either by the complainant or any of the eye witness. As a matter of record there is delay in filing the present application by the IO, however in the interest of justice and for the fair investigation, the application is allowed since the identity of the present accused Diya is required to be established to the complainant as well as other eye witnesses as there is no admissible piece of evidence in this regard on record till date. Further, the identity of coaccused Yamaj is duly established during the investigation since he has been arrested by the IO accompanying the complainant with him at the time of his arrest.”

6. Even otherwise, this Court is of the considered opinion that the veracity of the TIP can be looked into by the trial Court during the course of trial. The High Court, at this stage, generally should not interfere into the completion of the trial at the interlocutory stage. Such an intervention would



unnecessarily delay the process of the trial. In ***Malkhansingh v. State of M.P.***¹, the Supreme Court held that a TIP is not substantive evidence and its defects go to the weight of evidence, not its admissibility.

“7. It is trite to say that the substantive evidence is the evidence of identification in court. Apart from the clear provisions of Section 9 of the Evidence Act, the position in law is well settled by a catena of decisions of this Court. The facts, which establish the identity of the accused persons, are relevant under Section 9 of the Evidence Act. As a general rule, the substantive evidence of a witness is the statement made in court. The evidence of mere identification of the accused person at the trial for the first time is from its very nature inherently of a weak character. The purpose of a prior test identification, therefore, is to test and strengthen the trustworthiness of that evidence. It is accordingly considered a safe rule of prudence to generally look for corroboration of the sworn testimony of witnesses in court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings. This rule of prudence, however, is subject to exceptions, when, for example, the court is impressed by a particular witness on whose testimony it can safely rely, without such or other corroboration. The identification parades belong to the stage of investigation, and there is no provision in the Code of Criminal Procedure which obliges the investigating agency to hold, or confers a right upon the accused to claim a test identification parade. They do not constitute substantive evidence and these parades are essentially governed by Section 162 of the Code of Criminal Procedure. Failure to hold a test identification parade would not make inadmissible the evidence of identification in court. The weight to be attached to such identification should be a matter for the courts of fact. In appropriate cases it may accept the evidence of identification even without insisting on corroboration.”

7. In view of the aforesaid circumstances, the Court dismisses the instant petition, at this stage. Liberty is granted to the applicant to take all issues during the course of trial.

PURUSHAINDR KUMAR KAURAV, J

JULY 8, 2026/P

¹(2003) 5 SCC 746