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

CNR No. DLHC010298212026

+ **BAIL APPLN. 2641/2026**

AJAY

.....Petitioner

Through: **Mr. Rajneesh Kapoor, Advocate.**

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Shoaib Haider, APP for State.
Mr. Anuj Kapoor, Advocate for LR
of the deceased.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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20.08.2026

1. The present application has been filed on behalf of the applicant Ajay, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") [corresponding to Section 439 of the Code of Criminal Procedure, 1973], read with Section 528 of the BNSS [corresponding to Section 482 of the Cr.P.C.], seeking grant of regular bail in connection with FIR No. 449/2021, registered at Police Station Neb Sarai, Delhi, for offences punishable under Sections 302/34 of the Indian Penal Code, 1860 ("IPC").
2. As per the case set up by the prosecution, on 17.10.2021, at about 7.50 p.m., SI Bhagwan received DD No. 65A regarding a stabbing incident at H. No. 1575, Gali No. 9, L-1 Block, Church Colony, Sangam Vihar, New



Delhi. On reaching the spot along with HC Kiran, blood was found lying on the road. During enquiry, information regarding admission of the injured at Safdarjung Hospital was received vide DD No. 68A. On reaching the hospital, the injured, namely Imran, aged about 18 years, son of Nishar Khan, was declared “brought dead”. The MLC recorded that he had sustained stab injuries stated to have been inflicted by unknown persons.

3. The statement of the deceased’s brother, Gulfam, was thereafter recorded, wherein it was stated that on being informed by a neighbour, he, along with his father Nishar Khan and uncle Sirajuddin, reached the spot and found the deceased lying in a pool of blood; that his uncle’s daughter, Ayesha, made a call to 100; that the deceased was thereafter taken to Safdarjung Hospital in an auto-rickshaw; and that on the way, upon being asked, the deceased stated that he had been stabbed by Nirale, Harish, Ajay and two others, whereafter he became unconscious and was subsequently declared dead. It was further stated that the deceased had, for some days preceding the incident, been having a dispute with the said persons over a girl. On this basis, FIR No. 449/2021 under Section 302/34 IPC was registered at P.S. Neb Sarai.

4. In the course of investigation, the Investigating Officer apprehended a Child in Conflict with Law, CCL ‘H’ (aged 17 years 11 months), who disclosed that the applicant Ajay had called the deceased Imran to Church Colony, Sangam Vihar, where co-accused Nirale started arguing with him; that Nirale, with the assistance of CCL ‘H’ and the applicant, thereafter stabbed the deceased, whereafter all of them fled the spot; and that CCL ‘H’ threw the weapon of offence, a knife, under a car parked in a nearby plot, and Nirale assigned the further task of concealing the knife to another



associate, CCL 'O'. Pursuant to this disclosure, the Investigating Officer apprehended CCL 'O', and the weapon of offence was recovered at the instance of CCL 'O' and seized.

5. Thereafter, co-accused Nirale (aged about 18 years) and the applicant Ajay (aged about 19 years, at the relevant time) were arrested. During interrogation, both are stated to have disclosed that the applicant had procured the knife from one Shabir at Govindpuri and, on the date of the incident, handed it over to Nirale; and that the applicant called the deceased to the spot, where Nirale stabbed him. On 20.10.2021, both accused were produced before the concerned Court and remanded to two days' police custody, during which the clothes worn by them at the time of the incident were recovered from their respective residences and seized. The weapon of offence was thereafter sent for opinion, and the examining doctor opined that the injuries on the deceased could individually be caused by the seized weapon. CCTV footage of the scene was also obtained and seized during investigation.

6. Upon completion of investigation, a charge-sheet was filed. Charge stands framed against the applicant, and the case is presently at the stage of prosecution evidence. As per the status report filed on behalf of the State, 11 out of 22 prosecution witnesses have been examined thus far; the Investigating Officer (PW-12) is under examination, and several material witnesses are yet to be examined.

7. The applicant has, on three earlier occasions, applied for regular bail before the Trial Court under Section 439 Cr.P.C./Section 483 BNSS, which applications came to be dismissed *vide* orders dated 26.05.2022, 08.06.2023 and 09.06.2025, respectively. A fourth application preferred on behalf of the



applicant was dismissed by the Additional Sessions Judge *vide* order dated 22.04.2026, principally on the ground that the offence was grave in nature, that the weapon of offence stood recovered “at the instance of the applicant”, that the applicant was seen in the CCTV footage along with the co-accused, and that some of the prosecution witnesses remained to be examined.

8. It may be observed, and it is not without significance, that the impugned order dated 22.04.2026 proceeds on the premise that the weapon of offence was recovered at the instance of the applicant. This does not, however, appear to be an accurate reflection of the record. As borne out from the status report filed by the State, the weapon of offence was recovered at the instance of CCL ‘O’, a co-accused juvenile, and not at the instance of the present applicant.

9. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. It is submitted that the applicant has already suffered incarceration since 19.10.2021, i.e., for a period of approximately 4 years and 10 months as on date, and that there are no prior criminal antecedents against him. It is further submitted that the trial is likely to take considerable time to conclude, as only 11 out of the total prosecution witnesses have been examined till date.

10. It is contended that there is no independent eyewitness to the incident and that the prosecution case rests on the statement of the complainant regarding the alleged dying declaration of the deceased. Reliance is also placed on the CCTV footage placed on record by the prosecution, which, according to the applicant, shows him attempting to assist the deceased rather than participating in the assault. Learned counsel submits that the



weapon having been recovered from a co-accused and not from the applicant, makes it a fit case for grant of regular bail along with the ground of prolonged incarceration.

11. The aforesaid submissions are opposed by learned APP for the State as also by learned counsel appearing for the legal representatives of the deceased. It is submitted that all the accused persons, with common intention, caused the death of the deceased Imran; that the applicant played a key role inasmuch as he had procured the weapon of offence and handed it over to the co-accused, and thereafter lured the deceased to the spot where he was fatally assaulted.

12. It is additionally stated that the applicant is identified in the CCTV footage along with the co-accused and the complainant is the real brother of the deceased and has named the applicant on the basis of the deceased's own dying declaration; and that the applicant resides in close proximity to some of the prosecution witnesses, giving rise to an apprehension of tampering and threat. It is further submitted that some of the material witnesses are yet to be examined, and that, in view of the gravity of the offence and the applicant's role therein, no ground for grant of bail is made out.

13. This Court has considered the submissions advanced by learned counsel for the parties and has perused the record.

14. As per the prosecution's own case, the deceased had a dispute with the applicant and other co-accused over a girl, and on 17.10.2021, the applicant called the deceased to Church Colony, where co-accused Nirale started arguing with him. Thereafter, Nirale, with the assistance of a Child in Conflict with Law and the applicant, stabbed the deceased, whereafter they fled the spot. The role attributed to the present applicant, thus, is of having



procured and delivered the weapon of offence and of having called the deceased to the spot. The fatal stab injuries are attributed to co-accused Nirale. It is also significant that of the three persons alleged to be directly concerned with the assault, two, namely Nirale and CCL 'H', are Children in Conflict with Law, and the present applicant is the sole adult accused. As noted above, the weapon of offence was recovered at the instance of CCL 'O' and not at the instance of the applicant.

15. The Supreme Court in ***Dataram Singh v. State of U.P.***,¹ has reiterated that the grant of bail is the rule and refusal is an exception, and that the presumption of innocence continues to operate until guilt is established in accordance with law. ***Dataram Singh***(supra) held as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception.”

16. The parameters governing the grant of bail have also been succinctly laid down in ***Prasanta Kumar Sarkar v. Ashis Chatterjee***,² wherein the Supreme Court held that while considering an application for bail, the Court is required to balance the nature of the accusation, the severity of punishment, the possibility of the accused fleeing from justice, likelihood of tampering with evidence or influencing witnesses, antecedents of the accused and the overall interests of justice. It was held as under:-

“9. ... It is well settled that, among other circumstances, the factors to be

¹ (2018) 3 SCC 22

² (2010) 14 SCC 496



borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail.”

17. The Supreme Court in **Sanjay Chandra v. CBI**,³ has further observed that the object of bail is to secure the attendance of the accused during trial and that pre-trial detention should not assume a punitive character. These observations were expounded as follows:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

18. More recently, in **Satender Kumar Antil v. CBI**,⁴ the Supreme Court has emphasised that prolonged incarceration pending trial, particularly where the trial is not likely to conclude within a reasonable period, has to be viewed in the light of the guarantee of personal liberty under Article 21 of the Constitution.

19. Applying the aforesaid principles to the facts of the present case, this Court finds that the applicant has already remained in judicial custody for a period of approximately 4 years and 10 months. The role attributed to the applicant, on the prosecution’s own showing, is distinguishable from that of

³ (2012) 1 SCC 40

⁴ (2022) 10 SCC 51



the principal assailant. The weapon of offence has been recovered not from the applicant but from another co-accused CCL. Only 11 out of 22 prosecution witnesses have been examined thus far, and there is no indication on record that the trial is likely to conclude in the near future. The applicant has no prior criminal antecedents. In these circumstances, and without expressing any opinion on the merits of the case, which shall abide by the outcome of the trial, this Court is of the view that continued incarceration of the applicant, pending a trial with no discernible end in sight, would not be in consonance with the guarantee of personal liberty under Article 21 of the Constitution of India.

20. Therefore, it is directed that the applicant be released on regular bail on such conditions as may be imposed by the concerned trial Court.

21. Application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 20, 2026

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