



\$~3

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

+ **BAIL APPLN. 2390/2025**

DHARAM SINGH @ VICKY Petitioner

Through: Mr. Sarthak Tomar, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Ms. Shubhi Gupta, APP.
SI Ravinder Kumar, PS Paharganj.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **10.07.2026**

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeks regular bail in FIR No. 302/2018, registered at PS: Paharganj, Delhi, for the offence punishable under Section 302 of the Indian Penal Code, 1860 (IPC).
2. The petitioner has already approached this Court once before; that application was withdrawn on 05.09.2024, without reasons being recorded beyond the grant of leave to withdraw. He also moved the learned Trial Court, which dismissed his application for regular bail by order dated 09.05.2025.
3. The case has its origins in an intimation received at PS: Paharganj on 11.10.2018, when the owner of Karan Place Hotel in Chuna Mandi reported that a couple who had checked into Room No. 305 of his establishment that



afternoon, giving their names as Dharam Singh and Alka Sodi, had come to a violent end. The male occupant left hurriedly without explanation, and the female occupant was found dead on the bed shortly thereafter.

4. *Vide* supplementary chargesheet dated 28.06.2019, the FSL report records that human semen was detected on the bedsheet recovered from the room. DNA was extracted and profiled from several exhibits, including the bedsheet and the petitioner's own blood sample. The report's conclusion held that *"the DNA profile obtained from the bedsheet does not match the DNA profile obtained from the petitioner's blood"*. Additionally, a separate chemical analysis was undertaken and found no trace of any poison, intoxicant, or other toxic substance in the exhibits examined.

5. The nominal roll placed before this Court shows the petitioner's incarceration in five distinct tranches, the gaps between them corresponding to periods when he was released on interim bail and later returned, whether on the expiry of that liberty or otherwise. Those periods of custody amount to incarceration of five years, three months, and fifteen days as of 03.03.2026; with the petitioner having remained in unbroken custody since 21.12.2025, that figure now stands at approximately five years and seven months.

6. It is also taken on record that the petitioner was previously convicted in a separate matter, FIR No. 256/2013, under Sections 376, 511, 354, 384 and 506 IPC and sentenced to two years of rigorous imprisonment with a fine, a sentence that ran its course and expired on 05.03.2021. No other case stands registered against him.

7. Learned counsel for the petitioner submits that the case, as it presently stands, weighed against the length of custody already undergone, no longer



justifies further detention pending trial.

8. It is also advanced on behalf of the petitioner that the prosecution's circumstantial edifice, for all its apparent solidity, rests on a conspicuous gap in the DNA evidence. If the theory of the case is that the petitioner alone was present with the deceased in that room for roughly ninety minutes during which she met her death, and if semen recovered from the very bedsheet on which she was found does not match with the petitioner, then something in that theory requires an explanation that the chargesheet does not itself supply.

9. It is also submitted that there exist contradictions *qua* the issue of exclusive opportunity, i.e., whether the room could be accessed by means of a duplicate master key of which, on the petitioner's case, the owner was unaware, but the staff were not; and whether the room had a window offering an alternate means of entry. If either possibility survives scrutiny, the theory that only the petitioner could have caused the deceased's death during the window shown on the CCTV footage cannot be treated as beyond doubt.

10. The petitioner has now spent more than five and a half years in incarceration in a case where the investigation concluded long ago, where the chargesheet and its supplement have both been filed, and where no further recovery from the petitioner is shown to be pending or even contemplated. It is submitted that no purpose connected to the fair conduct of the trial is served by his continued detention; whatever purpose petitioner's custody once served has been exhausted, and what remains is mere delay.

11. Learned counsel for the petitioner also submits that across four grants



of interim bail, the petitioner reported for every hearing, made no attempt to contact or influence any witness, and was never accused of misusing his liberty in any substantive respect. On his personal circumstances, it is submitted that the petitioner works as a *Sevadar* within the jail, that he has a mother, a wife, and two children who depend on him, and that he is prepared to submit to whatever conditions this Court considers appropriate.

12. The aforesaid submissions are strongly opposed by Ms Shubhi Gupta, learned APP, submits that the CCTV footage proves not merely proves the petitioner presence in the vicinity of the offence; it places him inside the room with the deceased for the entirety of the period during which, on the medical evidence, she met her death, and shows him leaving alone, hurriedly, and without explanation, in a manner she submits is itself probative of consciousness of guilt. Taken together with the CDR record of contact between the two on the day in question, she submits this is not a case of a thin circumstantial thread but of a reasonably compact chain.

13. It is also contended that the petitioner is having previous involvement, and, bearing in mind the fact that about 14 prosecution witnesses have already been examined, it cannot be construed that the trial would not be conducted. Though the trial is pending for its completion, however, looking at the gravity of the offence, where the petitioner has killed the deceased and in view of the overwhelming evidence, the petitioner should not be enlarged on bail. It is also submitted by learned APP that PW-8 Sh. Mohd. Faiz and PW-9 Sh. Mukhtar, who are the hotel staff have fully supported the case of the prosecution.

14. Ms. Gupta places reliance on the decision of the Supreme Court



in **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana**¹, and specifically on paragraphs 24 and 25 of that judgment, for the proposition that prolonged incarceration cannot, without more, furnish a sufficient ground to release a person accused of murder on bail. Also, the seriousness and gravity of the offence must remain central to the exercise even where custody has been lengthy; and an order that loses sight of that gravity is, on the Supreme Court's own description, one that fails to pass muster under the law.

"24. The principles governing the grant of bail were reiterated by a two-Judge Bench in Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] : (SCC p. 499, para 9).

"9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be 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."*

Explicating the power of this Court to set aside an order granting bail, this Court held : (Prasanta Kumar Sarkar [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] , SCC p. 499, para 10)

"10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order

¹ (2021) 6 SCC 230.



would suffer from the vice of non-application of mind, rendering it to be illegal.”

25. We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In *Neeru Yadav v. State of U.P.* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] , this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17)

“17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order [*Mitthan Yadav v. State of U.P.*, 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside.”

15. However, on critical analysis of the decision, it is noted that the in cited case, the accused persons were arrested on 22.05.2020 and granted bail on 21.12.2020, a custody period of approximately seven months. The vice identified by the Supreme Court in setting aside the bail was not that prolonged incarceration had been wrongly invoked as a ground; it was that the High Court’s order contained no reasoning whatsoever. The present matter, by contrast, concerns a custody period nearly ten times as long, with the trial still at an early evidentiary stage through no fault of the petitioner. **Ramesh Bhavan Rathod** (supra) is accordingly distinguishable and does not stand in the way of the relief sought.

16. The settled architecture within which a bail application of this kind



must be decided was restated by the Supreme Court in **Prasanta Kumar Sarkar v. Ashis Chatterjee**², whether there exists a *prima facie* or reasonable ground to believe the accused committed the offence; the nature and gravity of the accusation; the severity of the likely punishment; the risk of the accused absconding; his character, behaviour, and standing; the likelihood of repetition of the offence; the reasonable apprehension of witnesses being influenced; and the danger of justice itself being thwarted by the grant of bail. These considerations are not a checklist to be ticked off mechanically; they pull, in a case of this kind, in genuinely different directions, and the task before this Court is to weigh them against one another rather than to recite them.

17. Ms. Gupta is right that antecedents cannot be brushed aside, and the Supreme Court's insistence in decisions of **Ash Mohammad v. Shiv Raj Singh**³ and **Neeru Yadav v. State of U.P.**⁴ that criminal history must be weighed, and weighed honestly, at the bail stage is not confined to cases where parity is claimed with a co-accused; it applies with equal force here. The petitioner's earlier conviction under Sections 376, 511 and 354 IPC is a matter this Court has not set aside from its consideration, and it carries the character of offences of a sexual and violent nature that cannot be treated as bearing no relation at all to the present accusation.

18. Though the weight of an antecedent is not fixed in the abstract, it depends on how it sits within the whole of a person's record. This conviction was for a single case, in which the sentence of two years was fully served and expired more than five years ago, on 05.03.2021. No other

² (2010) 14 SCC 496.

³ (2012) 9 SCC 446.



case, of any description, stands registered against the petitioner either before or after that conviction, or during any of the several periods he has spent at liberty on interim bail in the present matter

19. The proposition finds its earliest expression, fittingly enough in the context of Section 302 IPC itself, in ***Babu Singh v. State of U.P.***⁵, where the Supreme Court held that prolonged judicial delay resulting in extended incarceration without a final verdict must weigh heavily in the exercise of the Court's discretion, and that discretion in bail matters must proceed on principle rather than on the reflexive caution that a grave charge might otherwise invite.

20. That principle was given its modern constitutional grounding in ***Union of India v. K.A. Najeeb***⁶, where it was held that the liberty guaranteed under Part III of the Constitution extends not merely to fair procedure but to access to justice and to a speedy trial, and that once it becomes apparent that a timely trial is not achievable and the accused has already suffered a significant period of incarceration, courts are ordinarily obligated to release him on bail. A conclusion the Court reached even in the face of the considerably more stringent statutory bar under Section 43-D(5) of the UAPA, a bar with no counterpart in an ordinary prosecution under the Penal Code.

21. What is notable, for present purposes, is how consistently this principle has been applied by the Supreme Court to cases that, like this one, involve a charge under Section 302 IPC. In ***Vaibhav Singh v. State of U.P.***⁷,

⁴ (2014) 16 SCC 508.

⁵ (1978) 1 SCC 579.

⁶ (2021) 3 SCC 713.

⁷ SLP (Crl.) No. 7416/2026, order dated 29.04.2026.



bail was granted to a person who had spent nearly nine years in custody in a matter that included Section 302 IPC, the Court observing in terms that *“howsoever grave the crime may be... if the accused is denied his right of speedy trial and is languishing in jail for years together and for no fault on his part, he cannot be kept in jail for indefinite period.”*

22. In ***Sahil Manoj Machare v. State of Maharashtra***⁸, bail was granted under Sections 302/34 IPC to a person in custody for nearly four years where not a single witness had been examined despite the framing of charge, the Court holding that the constitutional guarantee of speedy trial cannot be sacrificed merely because the accusation is grave in nature.

23. In ***Kamal @ Kamal Choudhary v. State of M.P.***⁹, bail was granted in a matter that included Section 302 IPC after 4 years 8 months of custody, expressly considering the long duration of incarceration, notwithstanding that the same accused’s earlier bail applications had been dismissed by the Sessions Court, the High Court, and, on withdrawal, by the Supreme Court itself. Additionally, in ***Ram Saran Pal v. State of U.P.***¹⁰, the Supreme Court, on facts involving an accused who had remained in custody for six years on a case that included Section 302 IPC, held that he could not be made to continue in incarceration for a further period without the adjudication of his case being brought to finality.

24. In ***Javed Gulam Nabi Shaikh v. State of Maharashtra***¹¹, the Court went further still, holding that where the State or the prosecuting agency lacks the wherewithal to ensure a speedy trial, it ought not to oppose bail

⁸ 2026 SCC OnLine SC 810.

⁹ SLP (CrL.) No. (808/2025), order dated 28.02.2025.

¹⁰ (2018) 13 SCC 260.

¹¹ (2024) 9 SCC 813.



merely by invoking the seriousness of the offence, since Article 21 of the Constitution applies irrespective of the nature of the crime.

25. These are not decisions that dilute the gravity of murder as an offence, nor do they hold that the seriousness of a charge is irrelevant to bail. What they hold, with a consistency this Court cannot treat as coincidental, is that gravity is one factor among several, and that where the length of custody already undergone has come to exceed what the ordinary progress of a trial can justify, and where that length is not attributable to any default of the accused, the constitutional guarantee of a speedy trial under Article 21 asserts itself as an independent and, in an appropriate case, a decisive consideration.

26. The purpose of bail, as the Supreme Court reiterated in **Sanjay Chandra v. CBI**¹² and again in **Satender Kumar Antil v. CBI**¹³, is neither punitive nor preventive; it exists to secure the presence of the accused at a trial that is, in fact, going to occur within a reasonable time. Where that premise itself becomes doubtful, where the trial's timeline recedes further with each passing year, continued detention ceases to serve that purpose and begins, instead, to operate as a punishment imposed before any finding of guilt.

27. It is also noted that out of 34 witnesses only 14 witnesses have been examined, and the trial would take sufficient time in its completion. There is no possibility of influencing the prosecution witnesses as most of the important witnesses have already been examined.

28. The reference to the decision dated 29.04.2026 in the case of **Vaibhav**

¹² (2012) 1 SCC 40.

¹³ (2022) 10 SCC 51.



Singh vs. State of Uttar Pradesh¹⁴ can also be made, in which the Supreme Court in paragraph nos. 10 to 14 has held as under:

“10. It appears that the High Court has not been able to understand the true purport and ratio of the decision of this Court, referred to, in para 8. All that the High Court ought to have considered is the fact that the petitioner is languishing in jail as an undertrial prisoner past nine years. What more was required for the High Court to consider the plea of the petitioner for bail, keeping his right of speedy trial in mind as enshrined under Article 21 of the Constitution.

11. We believe we should not wait even for the State to appear. This is a gross case wherein the fundamental right of the petitioner to have a speedy trial as enshrined under Article 21 of the Constitution could be said to have been infringed.

12. In many of our Judgments and on many occasions, we have said in so many words that howsoever grave the crime may be, but if the accused is denied his right of speedy trial and is languishing in jail for years together and for no fault on his part, he cannot be kept in jail for indefinite period.

13. In view of the aforesaid, we order that the petitioner be released on bail forthwith, if not required in any other case, subject to terms and conditions that the trial court may deem fit to impose.

14. With the aforesaid, the Special Leave Petition stands disposed of.”

29. It is not the case of the prosecution that on account of the petitioner's non-cooperation, the trial is lingering on. Similarly, in the case of ***Sahil Manoj Machare vs. State of Maharashtra***¹⁵, the Supreme Court was dealing with grant of bail for offence punishable under Sections 302 read with Section 34 of the IPC. The Court found that the petitioner therein was in judicial custody since 01.11.2022, and bearing in mind the period of incarceration already undergone and without going into the seriousness of the charges, the Supreme Court opined that however serious the crime may be, if the right to a speedy trial is infringed, then the Court must consider the plea for bail appropriately. The petitioner in that case was found to have suffered almost 4 years of incarceration.

¹⁴ SIA(CrL.) No. 7416/2026



30. There is, no straitjacket formula, and each application must be weighed on its own facts. The withdrawal of the petitioner's first bail application before this Court on 05.09.2024, being an order that records no reasons of substance, has no precedential bearing on the present application and does not operate as any bar.

31. On a cumulative view of the record, the length of custody now running to over five and a half years, this Court is satisfied that continued incarceration of the petitioner, pending a trial with no discernible timeline for conclusion, is no longer warranted. The submissions of both sides on the merits of the prosecution's case, including the contradictions alleged in the hotel staff's testimony remain entirely open for determination by the learned Trial Court and are not, and should not be understood as, prejudged by anything stated in this order.

32. The petitioner is accordingly directed to be released on regular bail on such conditions as may be imposed by the Trial Court.

33. With the aforesaid directions, the application stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

JULY 10, 2026/aks

¹⁵ 2026 SCC OnLine SC 810.