



\$~3

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

CNR No. DLHC010941162025

+ **BAIL APPLN. 4578/2025 and CRL.M.A. 35293/2025**

OMVEER SINGH

.....Petitioner

Through: Mr. Bibek Tripathi, Mr. Manoj Kumar, Mr. Sudharka Tiwaria and Mr. Ajay Kr. Shrivastav, Advocates.

versus

STATE OF GNCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for State.
Mr. Sanjeev Kumar, Advocate for deceased family (Thr. VC)

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

%

31.08.2026

1. The applicant by way of the present application seeks for grant of regular bail in connection with FIR No. 675/2024 for offences under 103(1)/3(5)/61(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and 25/27 of the Arms Act, 1959 registered at Police Station Kotwali, Delhi.
2. Mr. Bibek Tripathi, learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated. He submits that the applicant has already suffered more than two years' incarceration and has no previous criminal record. He further submits that the investigation is



complete and chargesheet has been filed. It is, thus, submitted that no further custodial interrogation is required.

3. Besides the aforesaid, it is contended that the prosecution case is based on circumstantial evidence and is substantially weakened as PW-1 and PW-2, the important witnesses of the alleged last seen circumstance, have turned hostile. Even Manoj Kumar, PW-5, the caller and distant relative of the deceased, has been declared partly hostile.

4. The aforesaid submissions are opposed by learned APP, who appears for the respondent-State, and Mr. Sanjeev Kumar, learned counsel who appears for the deceased family. It is submitted that the offence is heinous in nature and that a country made pistol is stated to have been recovered at the instance of the applicant. It is further submitted that the statements of the last seen witnesses recorded under Section 183 BNSS, the CDR and CCTV footage *prima facie* connect the applicant with the place of occurrence. The mother of the deceased is also present before the Court.

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

6. The facts of the case would indicate that on 05.07.2024, information was received by the Police from caller Manoj Kumar, PW-5, regarding the murder of his relative i.e. Gaurav Thakur (deceased). On the basis of the said information, the FIR in question was registered and investigation was carried out. During investigation, the mobile location of the applicant was found near the place of occurrence, pursuant to which he was apprehended and, as per the prosecution, a country made pistol was recovered at his instance. The prosecution also relies upon the statements of PW-1 and PW-2, CDR and CCTV footage in support of its case. The investigation was



thereafter completed and chargesheet was filed before the trial Court, where the matter is pending trial.

7. It remains undisputed that PW-1 and PW-2, who are the material witnesses sought to establish the circumstantial link against the applicant, have both turned hostile. There is no other witness who establishes the said circumstance against the applicant. The evidence of Manoj Kumar, PW-5, has also commenced and he has been declared partly hostile. PW-5 has further stated that PW-1 and PW-2 had not given their statements to the police as eyewitnesses.

8. Learned counsel appearing for the deceased family, however, contends that the prosecution has relied upon the CCTV footage and that a country made pistol was recovered at the instance of the applicant, which corroborates the prosecution case against him.

9. The prosecution case against the present applicant primarily rests upon circumstantial evidence. The circumstances relied upon by the prosecution are required to form a complete and unbroken chain, pointing towards the guilt of the applicant and excluding every hypothesis consistent with his innocence. The law governing the appreciation of a case resting upon circumstantial evidence is well crystallised. The *locus classicus* is ***Sharad Birdhichand Sarda v. State of Maharashtra***,¹ wherein the Supreme Court formulated the five “*Panchsheel*” conditions which must be satisfied before guilt can be said to be established on the basis of 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 (1984) 4 SCC 116



(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.”

10. It is trite that the object of bail is not to inflict punishment by way of pre-trial detention. In ***Dataram Singh v. State of U.P.***,² the Supreme Court reiterated that the presumption of innocence remains in favour of the accused and that bail is the rule, while in ***Prasanta Kumar Sarkar v. Ashis Chatterjee***,³ the Court delineated the relevant considerations which must guide the exercise of discretion in matters of bail. The same principle was reiterated in ***Sanjay Chandra v. CBI***,⁴ wherein the Supreme Court emphasised that incarceration before conviction ought not to be punitive in character.

² (2018) 3 SCC 22

³ (2010) 14 SCC 496

⁴ (2012) 1 SCC 40



11. Without commenting on the merits of the allegations, it is undisputed that the applicant has already suffered incarceration for about 2 years. The continued incarceration of the applicant, in the facts and circumstances of the present case, would have to be balanced against his fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India.

12. Bearing in mind the period of incarceration and the nature of the offence, which is circumstantial in nature, the rival submissions will have to be examined by the trial Court at the time of passing of the final order. At this stage, this Court is of the opinion that the applicant is entitled for grant of regular bail.

13. Accordingly, the applicant is directed to be released on regular bail on such terms and conditions as may be imposed by the concerned trial Court.

14. Nothing stated, hereinabove, shall be construed as an expression on the merits of the case. The observations made herein are confined solely to the adjudication of the present bail application. The trial Court shall adjudicate the matter independently and in accordance with law, on the basis of the evidence adduced before it.

15. The application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 31, 2026

aks/SA