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

Date of Decision: 03.07.2025

+ BAIL APPLN. 67/2025, CRL.M.A. 445/2025

PAWAN

.....Petitioner

Through: Mr.Ajay Raghav, Advocate.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP
for State.

Mr. Harshvardhan Jain and Ms.
Tara Narula, Advocates for R-
2/Victim.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking Regular Bail in FIR No.32/2020 dated 19.01.2020, for the offence punishable under Section 302 of the Indian Penal Code, 1860 (IPC) registered at Police Station Wazirabad, North District, Delhi.

2. The genesis of the present case lies in a PCR call received on the night of 18.01.2020, vide DD No. 48A, to the effect that an injured person was lying at RCC Road, near Burari Traffic Signal, Hardev Nagar, Delhi. Upon receipt of said information, ASI Virender Pal, accompanied by Ct. Pawan and Ct. Anil, reached the spot, where a



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grey Maruti EECO vehicle bearing registration number DL-4CAX-6013 was found parked with its window glasses shattered.

3. Upon inquiry at the spot, no eyewitnesses were found. Meanwhile, information was received from Babu Jagjivan Ram Memorial (BJRM) Hospital vide DD No. 05-B dated 19.01.2020, informing that one Kartik, son of Rajkumar Khanna, resident of Nathu Pura, Burari, Delhi, aged 23 years, had been brought dead to the hospital. The body bore a stab injury on the left side of the chest. The subject FIR was registered thereafter and the investigation was handed over to Inspector Gulshan Gupta.

4. Relatives of the deceased, upon reaching the spot, confirmed that the EECO van was being driven by Kartik, who would ferry passengers between Kashmere Gate and Nathupura. They also stated that the deceased had no known enmity with anyone.

5. Subsequently, Ct. Anil and Ct. Pawan, who were on night patrol duty on 18.01.2020, reported having seen two boys running away from the location of the grey EECO van around 10:55 PM. They attempted to pursue them, but lost track.

6. During further investigation, an eyewitness (PW-16) came forward. In his statement he narrated that at around 10:40 PM on 18.01.2020, a dispute arose between the drivers of a grey EECO van and a maroon *Fatfat Sewa* vehicle over giving side on the road and the altercation turned violent. The witness saw 5-6 boys from the *Fatfat Sewa* assaulting the EECO driver. One among them attacked the EECO driver with a knife. The driver attempted to flee but collapsed nearby. The assailants then smashed the van's glass windows and fled.



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CCTV footage obtained from a nearby shop at Hardev Nagar, T-Point captured the maroon *Fatfat Sewa* vehicle fleeing the spot.

7. Investigation led the police to the Hardev Nagar *Fatfat Sewa* stand, where one Kuljeet identified the vehicle in the footage as belonging to him and driven by Yashwant. On inquiry, Yashwant disclosed that on the night of 18.01.2020, his associate Rahul (Ebrin @ Rahul) had taken the vehicle. Based on this information, a police team apprehended Rahul on 22.01.2020. During sustained interrogation, Rahul eventually confessed and named his co-accused Kapil @ Kohli, Deepak, Aakash @ TB, Pawan, and another Rahul Kumar all residents of Harijan Basti, Jharoda.

8. Rahul detailed that Kapil @ Kohli had driven the vehicle that night and, after an altercation with the EECO driver, had stabbed the latter with a knife. He further disclosed that Deepak and the petitioner had assaulted the victim with wooden sticks and *balli* and that they had vandalized the van before fleeing.

9. Pursuant to this disclosure, Kapil @ Kohli was also apprehended. He too confessed, revealing a history of criminal conduct and substantiating the version narrated by Rahul. He admitted to stabbing the EECO driver, breaking the van's windows, and fleeing the scene. He was identified by Ct. Anil and Ct. Pawan during police custody. The petitioner was arrested on 08.07.2020 and was correctly identified by PW-16 during judicial TIP proceedings.

10. A supplementary Charge-Sheet under Sections 302 and 34 of the IPC was filed against the petitioner. During trial proceedings,



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charges under Sections 302, 147, 427, and 34 of the IPC have been formally framed against the petitioner.

11. The learned counsel for the petitioner submits that the petitioner was arrested in connection with the present case on 08.07.2020 and has undergone incarceration for a period of about five years. Further, the petitioner has been granted *interim* bail once during this period, and has not misused this liberty.

12. The learned counsel submits that PW-16, who is the eyewitness in the present case, has failed to identify the petitioner during the course of the trial. He submits that there is no other evidence linking the petitioner to the crime and therefore, he is entitled to bail on this ground alone.

13. The learned counsel submits that out of a total of 28 witnesses, only 16 have been examined and therefore, the trial is likely to take a substantial amount of time to conclude. In these circumstances, he prays that the petitioner be granted Regular Bail.

14. Opposing the grant of bail, the learned APP for the State submits that the allegations against the petitioner pertain to his active involvement in the commission of a gruesome and brutal murder, committed in concert with other co-accused persons.

15. It was argued that on the night of the incident, following a road altercation, the petitioner, along with the co-accused, intercepted the vehicle of the deceased and subjected him to brutal assault, specifically by inflicting blows on the deceased with a wooden stick. When the deceased attempted to get up, another blow was delivered by the petitioner. Thereafter, one of the co-accused inflicted a fatal



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knife injury to the chest of the deceased, leading to his death on the spot. In such circumstances, where the incident has resulted in the loss of human life, the petitioner does not deserve the indulgence of bail, particularly when the trial is still underway and the examination of remaining material witnesses is pending.

16. Having perused the record and heard the learned counsels for the parties, as well as the learned counsel on behalf of the next kith and kin of the deceased, who although opposed the bail application, however, did not address any additional arguments. The petitioner stands charged under Sections 302, 147, 427, and 34 of the IPC, pursuant to FIR No. 32/2020 dated 19.01.2020, relating to a violent altercation resulting in the death of a 23-year-old commercial van driver. The incident, as per the prosecution, involved a dispute on the road which escalated into a brutal assault by a group of individuals riding in a *Fatfat Sewa* vehicle, leading to the fatal stabbing of the deceased.

17. As regards the petitioner, his name did not initially surface in the FIR or in the early stages of investigation. He was arrested on 08.07.2020, which is nearly six months after the incident, based primarily on a disclosure statement of a co-accused. He is alleged to have been part of the group that assaulted the deceased and damaged the van. A supplementary charge sheet was filed against him, wherein he is assigned the role of one of the active participants in the group assault.

18. It is relevant to note that while PW-16, the sole eyewitness of the prosecution has failed to identify him during his deposition before



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the Trial Court. Apart from this key witness, there is presently no other direct testimony connecting the petitioner to the alleged act of stabbing or assault.

19. It is not in dispute that out of the total 28 prosecution witnesses, only 16 have been examined till date, and the remaining 12 are yet to be examined. Given the elapsed time since filing of the Charge Sheet and the pace of the trial, it is evident that further incarceration of the petitioner may lead to prolonged pre-trial detention without a foreseeable conclusion of trial in the near future.

20. It is pertinent to note that the petitioner has already undergone incarceration for approximately five years. During this period, he has been released on *interim* bail on one occasion and has not misused the liberty granted. His nominal roll reflects a 'satisfactory' conduct and there are no allegations of tampering with evidence or threatening witnesses during the pendency of trial. He is not involved in any other criminal case.

21. In light of the above discussion, particularly the delay in arrest, the sole eye-witness having failed to support the prosecution's case regarding identity of the petitioner during trial, the satisfactory jail conduct, and the incomplete stage of trial with 12 witnesses yet to be examined, this Court is of the view that the petitioner has made out a case for grant of regular bail.

22. Accordingly, in view of the entire conspectus of facts and circumstances as noted hereinabove the petitioner is admitted to Regular Bail pending Trial in the subject FIR bearing No. 32 of 2020 dated 19.01.2020 for offence under Section 302 of the IPC and



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registered at Police Station Wazirabad, North District, Delhi, on his furnishing a personal bond in the sum of ₹ 30,000/- with two sureties in the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:

- i.** The Petitioner shall not leave the NCT of Delhi without prior permission of the learned Trial Court.
- ii.** The Petitioner shall report at Police Station Wazirabad, North District, Delhi., twice a week i.e., every Tuesday and Saturday between 4:00 P.M and 6:00 P.M for marking his presence.
- iii.** The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv.** The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v.** The Petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- vi.** The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii.** The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is



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unlawful or that would prejudice the proceedings in the pending Trial.

23. It is made clear that no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of Bail alone.

24. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

25. Accordingly, the present Bail Application stands disposed of.

SHALINDER KAUR, J

JULY 03, 2025/FRK

Click here to check corrigendum, if any