



2025:DHC:1882



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

Reserved on: 18.03.2025
Pronounced on: 24.03.2025

+ **BAIL APPLN. 122/2025**
SAVJAL ANSARI

.....Petitioner

Through: Mr. Hum Nashin Ahmed, Mr.
Imran Alam, Mr. Akshay K.
Singh, Ms. Sharaf Hasan, Ms.
Farkhunda Kaunain, Mr.
Prakhar Singh, MR. Javed Saifi
and Mr. Aniket Singh, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for
State.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

1. This is a first Regular Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on behalf of the Petitioner seeking grant of Regular Bail in FIR No. 17/2022 dated 07.01.2022 (Subject FIR) registered at the Police Station Sarai Rohilla for the offences under Sections 302, 201 and 34 of the Indian Penal Code, 1860 (IPC).

2. The Subject FIR is premised on information received regarding a male dead body found wrapped in a bedsheet and tied with a rope near Tikona Park Old Rohtak Road, near Railway Line underpass Jakhira, Delhi, whereupon Sub-Inspector Deepak Lohchab along with



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others, reached the place of incident. After an inspection of the dead body of the deceased, the scene of crime and upon opening the knot of the bedsheet and the rope, it was found that two polybags covered his mouth, tied by another rope, and also found injuries behind the head of the deceased along with several other injury marks on his body. Afreen, the wife of the deceased, who appeared on the spot identified the body of the deceased to be of her husband namely Abhishek, a 26 year old individual who resided in Pratap Nagar, Andha Mughal, Delhi.

3. It is stated that the Post Mortem report dated 08.01.2022 opined the cause of death to be '*asphyxia resulting from manual strangulation and cerebral damage, subsequent to blunt force impact over the head*'. The date of offence is alleged to be 06.01.2022 at about 04:30 PM, when he was last seen alive, whereas the body of the deceased is stated to have been recovered on 07.01.2022 at around 01:30 PM.

4. The Prosecution alleged that the investigation has revealed that the deceased had certain disputes with the accused persons who had been running a Bakery, namely Golden Bakery situated in Gali No. 3, Padam Nagar, Delhi. The role ascribed to the Petitioner is that he along with one Israfil assisted in the murder of the deceased by pulling his leg due to which the deceased fell down and thereafter, they caught hold of his legs, whereupon, the other accused persons strangled the deceased. Further, they covered the mouth and the body of the deceased with polythene and bedsheet. The deceased was tied with a



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rope and finally the accused persons threw the body at the Tikona Park, Inderlok, Delhi.

5. Further, it was alleged that the investigation has revealed that the bed-sheet and the polythene bags present in the Bakery resembled to the ones which were used to wrap the dead body of the deceased. Thereafter, all the accused persons were arrested on 09.01.2022.

6. Upon completion of the investigation, the chargesheet was filed on 19.05.2022 against the four accused persons namely (A1) Mohd. Rashid, (A2) Savjal Ansari (Petitioner), (A3) Afjal Ansari and (A4) Mohd. Abrar under Sections 302, 201 and 34 of the IPC.

7. The Prosecution attempted to connect the presence of the deceased at the Bakery at the relevant time through a Mobile No. 9667071528 which was used by the deceased, which allegation finds mention in the statement of Afreen, wife of the deceased, recorded under Section 161 Code of Criminal Procedure, 1973 (CrPC).

8. During the course of proceedings in the trial, the Petitioner had preferred a bail application before the learned Special Judge, NDPS-02, Central District, Tis Hazari Courts, Delhi (Trial Court) which came to be dismissed *vide* Order dated 20.12.2024. Thus, being aggrieved, the Petitioner has preferred the present bail application before this Court.

9. Learned counsel for the Petitioner submitted that the Petitioner has not been named in the FIR and has been falsely implicated in the present case. He submitted that the entire case is based on the disclosure statements of the Petitioner and of the other accused



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persons. There are no independent witnesses or even an eyewitness in the present case. He vehemently submitted that at the instance of Petitioner, a recovery of a mobile was made, however, the mobile was not sent for FSL for a forensic examination. He submitted that whether the mobile was used for a particular sim card or not has not been made certain by the Prosecution through any evidence.

10. He submitted that the Mobile No. 9667071528, alleged to be of wife of the deceased, through which the last location of the deceased was traced, was not registered in the name of the deceased or his wife rather the said number was registered in the name of one namely, Roopa.

11. As per the Post-Mortem Report dated 08.01.2022, he submitted, the deceased is stated to have sustained 15 injuries, several of which were incised wounds, however, admittedly, no recovery of the weapon of offence has been recovered from or at the instance of the Petitioner nor the Prosecution has explained the said injuries. Moreover, no time of death has been mentioned in the Post-Mortem Report.

12. The learned counsel for the Petitioner submitted that the co-accused persons, namely Mohd. Abrar *vide* Order dated 24.02.2025 passed in Bail Appln. 1822/2024 titled ***Mohd. Abrar Ansari vs the State (NCT of Delhi)*** and Afzal Ansari *vide* Order dated 03.09.2024 in Bail Appl. 2980/2022 titled ***Afzal Ansari vs The State (Govt. Of NCT Delhi)*** have been granted Regular Bail by this Court and on this sole ground, the Petitioner is entitled to be granted Bail. He submitted that the present Petitioner has been incarcerated for a period of 3 years



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and 3 months and the said co-accused had suffered 2 years and 2 months as on the relevant date.

13. He further submitted that the Petitioner joined the investigation on the very first day of the incident and has never absconded or even evaded the investigation. He further submitted that the Petitioner has 3 minor daughters and wife to look after and he is the sole bread winner of his family.

14. Moreover, the Prosecution has cited 36 witnesses in total and of which only 1 witness has been examined till date. The Petitioner has no criminal antecedents and belongs to a well reputed family who are permanent residents of Delhi. He further submitted that the Petitioner undertakes not to tamper with the evidence and influence the witnesses the Prosecution has sought to examine. In these circumstances, the Petitioner be enlarged on Regular Bail, subject to conditions imposed by this Court.

15. *Per contra*, the learned APP appearing on behalf of the Respondent submitted that the role of the accused is not only confined to the disclosure statements, but also that the Petitioner can clearly be seen in the CCTV footage before and after the commission of the offence alongwith the co-accused Mohd. Rashid. From the CCTV footage, it can be seen that the accused persons have entered the Bakery and when it is turned off and switched on again, the accused persons can be seen but the deceased person cannot be located, who could be seen earlier.

16. Learned APP submitted that the act of switching off the CCTV



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proves that it was a planned act and the Petitioner and the other accused persons did so deliberately for committing the murder of the deceased and for disposal of his body. Moreover, all the accused persons were present at the spot, as can be evidently seen from the CCTV footage, as also from the location of the accused persons as per the CDR analysis of their mobile phones.

17. Learned APP submitted that the Petitioner remains involved in committing the murder of the deceased and moreover, the mobile phone of the deceased has been recovered from Yamuna River near the Yamuna Bridge, Wazirabad, Delhi at the instance of the Petitioner and therefore, he cannot seek parity with the co-accused Afzal Ansari. He strenuously submitted that the polybags and bedsheet used to strangle the deceased also belonged to their Bakery as per the investigation.

18. Learned APP further submitted that the burden under Section 106 of the Evidence Act, 1872 is on the Petitioner to prove the exculpatory evidence, which can be done so only during the course of the trial. Thus, in these circumstances, he submitted, the bail cannot be granted to the Petitioner.

19. We have heard the learned counsel for the Petitioner as well as the learned APP and perused the record.

20. At the outset, we may note that the Coordinate Bench, while recently granting bail to the co-accused Mohd. Abrar Ansari, *vide* Order dated 24.02.2025 passed in ***Mohd. Abrar Ansari vs the State (NCT of Delhi)*** (supra) have noted that the notice was served to the



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next-of-kin of the deceased, namely his wife, who stated that since she has re-married, she does not wish to be heard in the proceedings, the statement thereto was also placed on record.

21. The Petitioner in the crime in question has been assigned the role that he along with one Israfil had pulled one leg each of the deceased Abhishek, who fell on the ground and thereafter, he and Israfil caught hold of the legs of the deceased, while the other co-accused persons strangled the deceased and thereafter, disposed of the body of the deceased.

22. At this stage, it would be apposite to note the relevant extracts from the bail Order of co-accused Afjal Ansari, which reads as under:-

“19. On a prima-facie view of the material on record, it would appear that the only incriminating evidence recovered at the Petitioner’s instance is the DVR containing certain CCTV footage relating to the Petitioner’s bakery. The Prosecution alleges that at the relevant time, i.e. around 04:30 p.m. on 06.01.2022, the Petitioner was present at the bakery and so was the deceased, though the Petitioner disputes his presence at the bakery at that time. In any event, the presence of the Petitioner at the bakery at the relevant time, and the recovery of the DVR and the CCTV footage on the Petitioner’s disclosure statement, would not by itself prove the Petitioner’s guilt.

20. Furthermore, the earlier incident of 16.09.2021, leading-up to the registration of DD No. 6A dated 16.09.2021 against the Petitioner and the deceased would again, in and of itself, not be conclusive of the Petitioner’s involvement in the offence of murder.

21. Other things apart, it is not disputed that despite lapse of about more than 2-2 years; only 01 out of the 36 Prosecution witnesses have so far deposed before the learned trial court; and that the



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Petitioner has been in custody throughout. It is therefore highly unlikely that the trial would be completed anytime soon."

23. During the course of the proceedings, this Court had put to the learned APP whether these Orders have been assailed in appeals, to which the learned APP fairly submitted that both the Orders granting bail to the other co-accused persons in the subject FIR have not been challenged.

24. As per the Nominal Roll, the Petitioner has been incarcerated for a period of 03 years and 01 months as on 03.03.2025 and the jail conduct of the Petitioner is satisfactory, moreover, he has clean antecedents.

25. From the record, it can be seen that there was no previous enmity between the Petitioner and the deceased as has been alleged against accused Afzal Ansari.

26. In view of the consideration of the above circumstances as well as on parity with co-accused Afzal Ansari, Md. Abrar Ansari, the Petitioner, ***Savjal Ansari*** is admitted to Regular Bail pending trial in the subject FIR, on his furnishing a personal bond in the sum of ₹30,000/- with one surety bond of 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 India without prior permission of the Learned Trial Court.
- ii. The Petitioner shall report at P.S. Sarai Rohilla every Saturday at 4:00 P.M. The concerned officer shall release



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the Petitioner after recording his presence and after completion of all the necessary formalities.

- 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. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
27. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.
28. It is made clear that observations made hereinabove shall not tantamount to be an expression of merits of the Petitioner's case and have been made for the consideration of the bail alone.
29. Accordingly, the petition is disposed of.

SHALINDER KAUR, J.

MARCH 24, 2025
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