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

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+ BAIL APPLN. 132/2025

GARIBAN

.....Applicant

Through: Mr. Mohd. Nasir, Mr.
A.K. Suri and Ms. S.
Nizam, Advocates.

versus

THE STATE GOVT. OF
NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP
for the State with Insp.
Sanjeev Kumar, PS
Punjabi Bagh and Insp.
Devender Oberoi, PS
Maurice Nagar.

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+ BAIL APPLN. 158/2025

RAJKUMAR

.....Applicant

Through: Mr. Mohd. Nasir, Mr.
A.K. Suri and Ms. S.
Nizam, Advocates.

versus

THE STATE GOVT. OF
NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP
for the State with Insp.
Sanjeev Kumar, PS
Punjabi Bagh and Insp.
Devender Oberoi, PS
Maurice Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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29.04.2025

1. The present applications are filed seeking grant of regular
bail in FIR No. 286/2022 dated 18.03.2022 registered at Police



Station Punjabi Bagh or offences under Sections 302/323/342/34 of the Indian Penal Code, 1860 ('IPC').

2. The FIR was registered on a complaint given by one Khusboo who alleged that her brothers namely Lakshmi Prasad and Manoj (hereafter 'the deceased') had come to her house to celebrate Holi. It is alleged that thereafter when the complainant's brother Lakshmi Prasad was returning, he got into a scuffle with co-accused Tijlu and the applicant – Rajkumar. Thereafter, when the complainant and the deceased intervened to save Lakshmi Prasad, it is alleged that co-accused Tijlu, the applicant – Rajkumar pulled Lakshmi Prasad and the deceased inside a room where the applicants along with other co-accused persons inflicted beatings on the complainant's brothers.

3. It is further alleged that in the midst of the quarrel, the applicant – Rajkumar along with co-accused Ravinder caught hold of the deceased, and the applicant – Gariban stabbed the deceased in his chest with a vegetable cutting knife after which the deceased became unconscious and fell down. It is alleged that thereafter the applicants along with other co-accused persons inflicted kicks and fist blows on the deceased. The deceased on being taken to the hospital was declared brought dead.

4. The applicants were thereafter arrested on 19.03.2022. During the course of the investigation, the weapon of the offence, that is, the blood stained knife, and the blood stained vest were recovered at the instance of the applicant – Gariban.

5. The learned counsel for the applicants submits that the applicants have been falsely implicated in the present case. He submits that there are discrepancies in the statements of the witnesses, and the same ought not to be relied upon. He submits that the material witnesses have already been examined, and that



no purpose would be served in keeping the applicants in further incarceration. He submits that the applicants have been languishing in jail for the last more than 3 years, and prays that the applicants be enlarged on bail on account of the delay in trial.

6. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicants. He submits that the allegations against the applicants are serious in nature. He submits that the weapon of the offence, that is, the blood stained knife, and the blood stained vest were recovered at the instance of the applicant – Gariban. He submits that specific allegations have been made against the applicants attributing their role in the commission of the alleged offence. He submits that the applicant – Rajkumar caught hold of the deceased when the applicant – Gariban stabbed the deceased in his chest with a vegetable cutting knife.

7. I have heard the counsels and perused the material on record.

8. The Hon'ble Apex Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

9. It has been held in a catena of judgments that while considering an application of the accused seeking bail, the Court would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused as the same is a matter of trial.



10. The grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie* case, the nature and severity of the crime and the accused's likelihood to tamper with evidence, among other considerations as noted above.

11. In the present case, the allegations against the applicants *prima facie* are serious in nature. It is the case of the prosecution that the applicants along with other co-accused persons are involved in the commission of the murder of the victim. The applicants are alleged to have inflicted beatings on the deceased. Further, the applicant – Rajkumar is alleged to have caught hold of the deceased when the applicant – Gariban allegedly stabbed the deceased in his chest with a vegetable cutting knife.

12. The learned counsel for the applicants contends that the material witnesses have already been examined and that there exist certain discrepancies in the statement of the complainant. It is pointed out that in the statement that led to the registration of the FIR, the complainant had named the applicants and the other co-accused persons, however, in her cross examination, the complainant herself stated that she did not know the accused persons prior to the incident. The learned counsel for the applicants contends that the same casts a doubt in the story of the prosecution, the benefit of which should be afforded to the applicants.

13. It is pertinent to note that the Hon'ble Apex Court in several judgements has cautioned against delving into the question of credibility/reliability of the witnesses at the stage of grant of bail. From a perusal of the material on record, it is *prima*



facie apparent that the eye-witnesses have identified the applicants and have supported the case of the prosecution. PW-4, who is stated to be the neighbour of the complainant, has also attributed the role of the applicants in the commission of the alleged offence. Whether such discrepancy as has been pointed out by the learned counsel for the applicant would be fatal to the case of the prosecution would be tested during the course of the trial and would be considered at the time of final arguments. The same cannot be made a ground to enlarge the applicants on bail at this stage.

14. The learned counsel for the applicant further contends that the applicants have been languishing in custody for the last more than 3 years, and that the trial is not likely to conclude in a timely manner. On being pointedly asked, it is informed that 8 out of 25 witnesses have been examined.

15. While the applicants have spent a considerable period of time in custody, however, it cannot be ignored that the applicants have also been charged for an offence under Section 302 of the IPC. The applicants, if convicted, would be sentenced to imprisonment for life. For this reason, long period of incarceration alone cannot be a ground to grant bail to the applicants at this stage.

16. It is pertinent to mention that while deciding the question of bail, the Court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence and its impact on society.

17. Accordingly, taking into account the submissions made by the learned counsel for the parties, and material available on



record, this Court is of considered opinion that *prima facie*, there are serious allegations against the applicants which at this stage cannot be said to be without any material.

18. Considering the facts and circumstances of this case, this Court is not inclined to grant bail to the applicants at this juncture.

19. It is made clear that the observations made in the present case are only for the purpose of considering the bail applications and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

20. In view of the above, the present bail applications are dismissed.

21. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 29, 2025