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

+ **BAIL APPLN. 244/2025**

**MOHIT ALIAS BHOLI** .....Petitioner

Through: **Mr.Vineet Jain, Advocate**

versus

**STATE (GNCT OF DELHI) THROUGH SHO** .....Respondent

Through: **Ms.Richa Dhawan, APP for the State  
alongwith SI Parmender Kumar, P.S.-  
Nihal Vihar, Delhi**

**CORAM:**

**HON'BLE MR. JUSTICE ARUN MONGA**

**ORDER**

% **16.09.2025**

1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 27.06.2019 i.e. more than 6 years, in a criminal case arising out of FIR No. 381/2019 dated 06.06.2019 for the alleged offences punishable under Sections 307, 120B, 34 of the IPC and under Sections 25, 27, 54, 59 of the Arms Act, 1959, registered at Police Station Nihal Vihar.

2. Per FIR, on 05.06.2019, a PCR call was received regarding three boys who came on a motorcycle and fired bullets before fleeing. Thereafter, ASI Vijay Kumar along with Ct. Kulbir reached the spot where a white Maruti Swift Dzire car bearing registration No. DL-4C-AU-4430 was found with broken windows, six bullet marks, and empty cartridges lying nearby. One empty round was found inside the car and two lead pieces were recovered from under the seat.

2.1 The public informed that the injured had already been shifted to hospital. Subsequently, vide MLC No. 8316/19, it was revealed that the



victim had sustained a gunshot wound on the right side of the abdomen and the injuries were opined to be grievous. Consequently, present FIR was registered and during the course of investigation, the applicant along with co-accused persons were apprehended on the basis of a CCTV camera footage.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

4.1 That the applicant has no previous conviction in any case, and in all matters he is on bail. He would contend that the applicant has deep roots in society and is the only earning member of his family, responsible for maintaining his aged parents.

4.2 That the applicant was arrested in the present case on 27.06.2019 and since then he is in judicial custody, having suffered more than six years of incarceration. That the applicant has nothing to do with the alleged offence and has been falsely implicated in this case solely due to vague and defective investigation, without any corroborative material against him. Nothing has been recovered from his possession or at his instance; the alleged recovery of weapons has been planted upon him. He would argue that the investigation is already complete, the chargesheet has been filed, and the trial is presently at the stage of prosecution evidence. Out of the 22 witnesses relied upon by the prosecution, only 3-4 have been partially examined, with the trial facing inordinate delays. He would contend that such delay infringes the constitutional right of speedy trial under Article 21 of the Constitution of India, as no undertrial can be kept behind bars for an



indefinite period.

4.3 That despite the lapse of more than six years since commencement of trial, the investigating agency has failed to procure FSL results, further delaying proceedings. The case of the prosecution hinges solely upon the statement of the injured/victim, PW Narender Kumar Sharma/ victim, who has already been examined before the learned Trial Court but failed to identify the applicant as one of the assailants. Similarly, PW3 Naveen, present at the time of the alleged incident, did not depose anything incriminating against the applicant. He would argue that the trial is also stuck due to non-production of case property and alleged CCTV footage and the FSL report itself records that no data could be retrieved from the seized DVR, leading to repeated adjournments and deferred witness examination.

4.4 That it is pertinent that a co-accused, Deepak Kumar, against whom allegations were similar and from whose possession also one pistol/katta was allegedly recovered, has already been enlarged on regular bail. Apart from the false statement recorded under Section 161 CrPC, which has been contradicted during deposition, there is no other incriminating evidence against the applicant. Furthermore, it is relevant that the complainant bears a grudge against the applicant, having earlier attacked him, for which an FIR had been registered against the complainant. Hence, false implication cannot be ruled out.

4.5 That the applicant had earlier approached the learned Trial Court with his regular bail application, which was withdrawn on 16.11.2022. Thereafter, almost two years passed without progress in trial, and upon moving another application, the same was declined on 10.09.2024. He would urge that the applicant has no apprehension of tampering with



prosecution evidence or absconding and undertakes not to misuse the concession of bail.

5. Opposing the above submissions, the learned APP for the State argues that the same is *sans* merit and the applicant is not entitled to any relief at this stage, as there remains a genuine risk of him absconding, influencing or intimidating witnesses, and tampering with crucial evidence. She would submit that the applicant had filed a regular bail application which was also dismissed by the learned ASJ vide order dated 10.09.2024 on similar grounds. She would further contend that the applicant is the main accused in the present matter and is also involved in various other cases and if released on bail, he may attempt to evade judicial proceedings.

6. Having heard, I am of the view that there may be some substance in the arguments addressed on merits by the learned counsel for the applicant but the same are matter of trial, but at this stage, it is otherwise a fit case for bail. Let us see how.

7. *Prima facie* the prosecution's case rests solely on the statement of PW-Narender Kumar Sharma/ victim, who, in his deposition before the learned Trial Court, failed to identify the applicant as one of the assailants. PW-03 Naveen, another eyewitness present at the scene, did not depose anything against the applicant. Moreover, the trial has remained stalled due to non-production of case property and the alleged CCTV footage, which, as per the FSL report, could not be retrieved from the seized DVR, leading to repeated deferment of witness examination.

8. The applicant has already remained in custody since 27.06.2019, for approximately 6 years and 3 months. Investigation is over *qua* him as the charge sheet has been filed on 02.09.2019, he is thus not required for any



custodial investigation. The trial is moving at a snail's pace and further continued incarceration would cause undue hardship to the applicant's family and serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

9. As regards the apprehension of influencing or intimidating the witnesses, absconding and tampering with evidence, there is nothing on record to support the same, rendering such apprehension illusory. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant poses no flight risk, and continued detention may amount to punishment before conviction, at this stage.

10. Despite over six years, while on one hand there is delay in trial proceedings; the prosecution on the other hand has implicated applicant relying solely on the victim's testimony, who failed to identify the applicant, while another eyewitness gave no incriminating evidence. Co-accused with similar allegations has already been granted bail. Given the complainant's prior enmity, false implication cannot be ruled out. Other than a contradicted statement under Section 161 Cr.P.C., no other credible evidence exists against the applicant.

11. Further, co-accused/ Deepak has also been granted bail as per the charge-sheet and the applicant also deserves same relief on ground of parity. The nominal roll further reflects that the applicant has been granted concession of bail in various other FIRs, during which no misconduct was reported, thus, I am of the view that the applicant deserves concession of bail in the present matter.

12. As an upshot and taking a wholesome view of the matter, particularly



the undertaking given by learned counsel for the applicant and apart from what has been recorded hereinabove, I am of the view that it is a case of bail at this stage.

13. Thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

14. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

15. Accordingly, the bail application stands disposed of.

**ARUN MONGA, J**

**SEPTEMBER 16, 2025/dy**