



\$~9

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

+ **BAIL APPLN. 356/2025**

SANJAY

.....Petitioner

Through: Ms. Dolly Sharma, Adv.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
with Insp. Rajeev Kumar, P.S.Ashok
Vihar.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

16.04.2025

%

1. This is an application for grant of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ['BNSS'] read with Section 528 of BNSS filed on behalf of the applicant in case FIR No. 231/2020, P.S.Ashok Vihar.

2. Learned counsel for the petitioner submits that there is no direct evidence in this case and the case is based on circumstantial evidence. It is further submitted that there is no recovery from the present applicant. There was no police complaint either from the deceased or from any of his family members about any threat being extended even by the co-accused to kill the victim. It is argued that public witnesses have not supported the prosecution case inasmuch as PW-9 has deposed that he has no personal knowledge about the case and has denied having made any statement to the police. With regard to the testimony of PW-1, the brother of the deceased, it is submitted that he has deposed that his statement was recorded on telephone



and he never came to Delhi after the death of his brother. PW-7 and PW-8 have also not supported the case of the prosecution and have denied having made any statement to the police. With regards PW-8-neighbour, it is submitted that he has deposed that he has no personal knowledge about the case, and just his signatures were taken by the police.

3. It is argued that there are material contradictions, improvements in the testimonies of the witnesses, and it is a case of no evidence against the petitioner.

4. The bail application has been opposed by learned APP arguing that petitioner and the wife of the deceased were having illicit relationship and because of the said reason, both of them in conspiracy with each other, killed the victim. It is stated that call details records of the applicant and the co-accused were obtained and analyzed and it was found that they called each other in the intervening night of 1/02.05.2020 for committing the offence. Learned APP also places reliance on the statement of PW-1 Bharat Chandra Das, brother of the deceased who stated that there used to be quarrel between the deceased and his wife Anita on the issue of Sanjay (applicant) who was lover of Anita. PW-1 has also deposed that his deceased brother Sharad Chandra Das had also informed about Anita and Sanjay and their relationship and that Anita threatened his brother to kill him several times. It is submitted that there is sufficient evidence against the present applicant/accused, and allegations being grave and serious in nature, the applicant is not entitled for grant of bail at this stage.

5. Briefly stated the facts of the case are that on receipt of DD No. 19B, police reached at the spot i.e., Jhuggi No.1-48/1, Jailor Wala Bagh, Phase-II, Ashok Vihar, Delhi where the dead body of the deceased Sharat Chandra



was found lying. The body was covered with the help of blood stained blanket. Upon postmortem, the cause of death was found to be asphyxia due to ante-mortem smothering.

6. During the course of investigation, the applicant and co-accused Anita were apprehended and they confessed having killed Sharat Chandra Das in the intervening night of 01/02.05.2020 with the help of a blanket by putting the same on his mouth and pressing it forcibly. They confessed that they were in relationship with each other, which came to the notice of the deceased and due to this reason they killed him.

7. It appears from the status report as also from the arguments of learned APP that prosecution is solely relying on the testimony of PW-1, brother of the deceased, and the call details records. PW-1 in his testimony before the court has stated that co-accused Anita had been threatening his brother to kill him several times. There is nothing in the statement of PW-1 qua the present applicant except that he was into the relationship with co-accused Anita.

8. The other piece of evidence on which the prosecution places reliance is the call details record to show that certain calls were exchanged between the applicant and the co-accused on the fateful night and their location was the same but on being asked, the investigating officer states that the applicant and co-accused were residents of the same area.

9. No other evidence against the applicant has been pointed out either by the investigating officer present in court or by learned APP. The applicant is stated to be in custody since last more than 4 years. The nominal rolls received from the Jail do not indicate any previous criminal antecedents of the applicant. The nominal rolls also indicate that applicant was granted



interim bail. The status report does not reveal that he had misused the liberty of grant of interim bail. So far 13 witnesses out of 32, cited by the prosecution, have been examined. Therefore there is no likelihood of concluding the trial in near future.

10. Hence keeping in view the entire facts and circumstances and without expressing any opinion on the merits of the case, I deem it appropriate to admit the applicant/accused Sanjay to bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surely of like amount to the satisfaction of learned Trial Court/Duty Magistrate subject to the further following conditions:

(i) The applicant shall not try to contact or threaten or intimidate any of the witnesses acquainted with the present case.

(ii) On being released, the applicant shall furnish his mobile number to the Investigating Officer/SHO of the police station and shall always keep the mobile switch on at all times.

(iii) The applicant shall appear regularly before the trial court as and when directed by the Investigating Officer.

11. The observations made in the present order are only for the purpose of adjudication of bail application and shall not affect the merits of the case.

12. The application accordingly stands disposed of.

13. Copy of this order be sent to the Superintendent Jail for information and necessary action.

RAVINDER DUDEJA, J

APRIL 16, 2025/ib