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

+ **BAIL APPLN. 338/2025**

ASHWANI KUSHWAHA

.....Petitioner

Through: Mr. Sandeep Sharma, Sr. Adv with
Mr. A. R. Regmi, Adv. Ms. Konika &
Mr. Mukesh Ranjan, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for State

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

22.04.2025

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1. By way of the present application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 409/2015, registered at Police Station Kapashera, Delhi, for the commission of offences punishable under Sections 302/397/411/120B/34 of Indian Penal Code, 1860 (hereafter 'IPC')
2. Briefly stated, facts of the present case are that on 22.09.2015, upon receiving a PCR Call, a team of police officials reached the spot and police officials came to know that an old lady namely Bimla Devi, had been taken to Columbia Asia Hospital, Gurugram, by her son. At the spot of the incident, various blood-stained articles were found, including a bedsheet, mattress, iron stake with wooden handle, a small knife, a denture, broken spectacles, and a blood-stained cloth. Thereafter, the team of police officers had reached Columbia Asia Hospital, where the attending doctor had



declared Bimla Devi as brought dead, *vide* MLC No. 3227/2015. The deceased's son, i.e. the complainant, Gaurav Bhardwaj, S/o Shiv Ganesh Bhardwaj had informed the police officials that he had been residing with his wife at Flat No. F-901, Ranjeet Vihar Apartment, Sector 22, Dwarka, Delhi for the past one month. On 22.09.2015 at around 10:50 AM, he left his residence to visit a doctor in Gurugram, Haryana, he had called his father who asked him to check up on his mother. As he reached their house he had found his mother lying on the bed unresponsive with her mouth, hands and legs tied and blood on her face. Subsequently, with the help of local residents and his friend Anil Rana, the complainant rushed the deceased to Columbia Asia Hospital, Delhi where she was declared dead. On the basis of the above statement, the present FIR was registered. During the investigation, it was found that cash of Rs. 30,000/-, one Sony camera, a Samsung mobile phone, a pair of gold earrings, four artificial golden bangles, a gold ring, and some other items were missing from the house. Thereafter, a tenant named Amit Bhandari @ Amit Pal, who was living on the deceased's property was arrested and two more individuals, co-accused Ajay @ Ajju and Vijay @ Chhutan, who were seen coming out of the house of the alleged incident, around the time of the incident, were also arrested. In their disclosure statements, both co-accused named the present applicant/accused as one of the persons involved. It is alleged that Amit Bhandari @ Amit Pal, who had not paid rent for the last three months, conspired with the present applicant/accused, along with Ajay @ Ajju and Vijay @ Chhutan, to murder his landlady and commit robbery.

3. Learned Senior counsel appearing for the applicant argued that the present applicant/accused has been falsely implicated in the present case and



has remained in judicial custody for more than 9 years. It is submitted that out of the total 43 prosecution witnesses, only 19 have been examined so far, and all the material witnesses have already been examined. It is stated that the arrest of the present applicant/accused along with the recovery of jewellery items from his instance had been made, 23 days after the registration of the present FIR. It is also stated that the mobile phone that was attributed to the accused/applicant does not belong to him. The learned senior counsel further submits that the present applicant/accused had been granted interim bail twice under the guidelines of the High Powered Committee during the COVID-19 pandemic, and on both occasions, and he had surrendered on time. It is submitted that no useful purpose will be served in his prolonged incarceration, therefore it is prayed that he be granted regular bail.

4. On the other hand, the learned APP for the State has vehemently opposed the present bail application, and has submitted that the allegations against the present applicant/accused are grave and serious in nature. The accused/applicant was arrested based on the disclosure statement of co-accused Amit Singh Bhandari @ Amit Pal, who was a tenant at the deceased's property. It was further submitted that the missing jewellery was recovered at the instance of the present accused/applicant. It is also submitted that the husband of the deceased (PW-1) has identified the applicant as a frequent visitor to their house, as he is a friend of the co-accused Amit Singh Bhandari@Amit Pal. It is further submitted that the Call Detail Records (CDRs) show that all the accused persons, including the present applicant, were present in Bijwasan, Delhi, the area of the alleged offence at the time of the alleged offence. Moreover, the mobile phones



allegedly used for the commission of the offence were also recovered at the instance of the present applicant/accused. Furthermore, the CDRs and Customer Application Forms (CAFs) of all four accused, including the present applicant, show their connection to the Bijwasan area, which is where the incident occurred. The learned APP also submitted that, *vide* order dated 24.01.2025 passed in Bail Application No. 4771/2024, the learned Trial Court had already been directed to expedite the Trial in the present case. Therefore, in compliance with the said order, the trial has been proceeding expeditiously, and as of now, only 11 witnesses out of 43 remain to be examined. Accordingly, as the trial is about to conclude, the present bail application be dismissed.

5. This Court has heard arguments addressed by the learned counsel appearing for either side, and has also perused the material available on record.

6. The allegations against the present applicant/accused, in a nutshell, are that he was allegedly involved in the murder of the deceased along with the co-accused persons. The jewellery items that were missing from the house of the deceased were recovered at the instance of the present accused/applicant.

7. After perused of the case file, this Court noted that the record reveals that co-accused Amit Singh Bhandari @ Amit Pal, who was residing as a tenant in the deceased's property, disclosed the involvement of the applicant/accused in the conspiracy to commit the said offence.

8. It is also noted that two mobile phones allegedly used in the commission of the offence were recovered at the instance of the accused/applicant. The record further reveals that CAFs and CDRs of the



mobile numbers used by the accused persons, including the present accused/applicant, clearly show that they were present in the Bijwasan, Delhi area on the date of the alleged incident and were in constant communication with one another.

9. The learned Trial Court has rightly held that accused/applicant's release on interim bail during the COVID-19 pandemic under the guidelines of the High Powered Committee cannot, by itself, be a ground for grant of regular bail as the said bail was granted under exceptional circumstances and cannot be treated as the merits of the present case.

10. This court acknowledges the period of incarceration of the present accused/applicant is a long period of 9 years, however, the allegations in the present case are grave and serious and a bare perusal of the record reveals that one pair of gold tops which belonged to the deceased, was recovered at the instance of the present accused/applicant.

11. This Court notes that the learned Trial Court had already been directed to expedite the trial vide order dated 24.01.2025 passed in Bail Application No. 4771/2024. It is also noted that a bare perusal of the Status Report dated 22.04.2025, shows that the learned Trial Court has complied with the directions issued by this Court to expedite the present Trial. The relevant portion of the Status Report is reproduced as under:

“Every endeavour is being made to dispose off the present matter within the timeline as provided by the Hon'ble Delhi High Court i.e. six months w.e.f. 07.02.2025 and sufficient time for disposal of the present matter has been provided by the Hon'ble High Court.”

12. This Court thus notes that the material on record, *prima facie*, connects the applicant/accused to the crime, and considering the seriousness



of the offence, at this stage, where only 11 witnesses remain to be examined, this Court is not inclined to grant bail in the present case.

13. However, if the Trial does not conclude within the time given by the learned Trial Court, i.e. 6 months w.e.f. 07.02.2025, the present applicant/accused shall be at liberty to file a fresh bail application on similar grounds, which shall be considered by this Court.

14. Accordingly, the present bail application for the grant of regular bail stands disposed of.

15. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 22, 2025/vc

[Click here to check corrigendum, if any](#)