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

+ **BAIL APPLN. 389/2025**

HARSH ALIAS RISHI

.....Applicant

Through: Mr. Pradeep Rana, Mr.
Kartik Gadi, Ms. Riya
Rana, Mr. Abhishek Rana,
Mr. Ankit Rana & Mr.
Robin Singh, Advts.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

27.03.2025

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1. The present application is filed seeking regular bail in FIR No. 480/2024 dated 30.06.2024, registered at Police Station Subhash Place, for the offence under Section 307/34 of the Indian Penal Code, 1860 ('IPC'). Chargesheet has been filed against the applicant for the offence under Section 302/34 of the IPC.

2. The present FIR was registered on the basis of the statement of the complainant (father of the victim). The complainant alleged that on 29.06.2024, the brothers of the applicant were involved in an altercation with Mahesh (brother of the victim) due to an ongoing old dispute. To address the matter, on 30.06.2024, the complainant visited the grocery shop of the applicant's father-co-accused Lokesh, however, co-accused Lokesh started abusing the complainant. In the
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meantime, Mahesh and the victim Vikram also reached the spot after finding out about the quarrel. The complainant further alleged that despite efforts of Mahesh and the victim to placate the co-accused Lokesh, he called the applicant and asked him to bring the iron rods to teach the complainant and his sons a lesson. It is alleged that the applicant brought the iron rod to the spot whereafter the co-accused Lokesh exhorted his sons to beat the complainant and his sons. On the instigation, co-accused Vijay caught hold of the victim from behind and co-accused Priyanshu stabbed the victim with a sharp object on his neck. The complainant alleged that the applicant gave a blow on the head of the victim with the iron rod.

3. The victim succumbed to his injuries and accordingly, Section 307 of the IPC was replaced with Section 302 of the IPC. On the instance of the accused persons, the iron rod and scissors were recovered and taken in police possession.

4. During investigation, the CCTV footage of the incident was obtained and analysed which showed the applicant lifting the scissors from the counter and attacking the victim. The FSL *qua* CCTV Footage is still pending.

5. The learned counsel for the applicant submits that the only role alleged to the applicant as per the witnesses, including the complainant, the brother of the victim—Mahesh and independent witnesses, is that he gave a blow with an iron rod on the head of the victim. He submits that the postmortem report and the MLC of the victim clearly depicts that there was not even a single injury or abrasion on his head.

6. He submits that all the other co-accused persons who have been charge sheeted in the present case have already been enlarged on bail. He submits that the applicant is entitled to bail
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on the ground of parity.

7. He submits that the chargesheet has been filed and no purpose will be served by subjecting the applicant to further incarceration.

8. He further submits that there is no statement to support the purported CCTV footage. He submits that as per the prosecution, it was co-accused Priyanshu who had given the blow with the scissors and at whose instance the scissors were recovered, however, the said co-accused was granted bail as it surfaced that he was not present at the spot at the time of the incident.

9. He submits that during investigation of the case, it has transpired that the brothers of the applicant were not even present on the spot which falsifies the version of the prosecution and shows that the applicant and his family members are being falsely implicated in the case.

10. He submits that the trial is being protracted for want of FSL and in such circumstances, the applicant ought to be enlarged on bail.

11. The learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the CCTV footage of the incident clearly shows the applicant hitting the victim with the scissors.

12. He submits that the applicant cannot claim parity with the other co-accused persons as they have been granted bail only after taking note of their specific roles.

13. I have heard the learned counsel and perused the record.

14. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as: (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.

15. 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.

16. 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 severity of the crime and the accused's likelihood to tamper with evidence, among other considerations as noted above.

17. In the present case, it is stated that the applicant can be seen on the CCTV Footage picking the scissors and stabbing the applicant. It is stated that the CCTV Footage establishes the applicant's presence at the spot of the incident as well as his role of having dealt the fatal blow with the scissors.

18. While it is argued that the witnesses have stated in their initial statements to police that it was co-accused Priyanshu who had stabbed the victim with the scissors, *prima facie*, the CCTV footage which records the very incident is incriminating in nature and cannot be ignored merely due to absence of FSL.

19. The credibility of the versions of the complainant and other witnesses as well as the defences asserted by the applicant would be assessed during the trial, however, at this stage, *prima facie*, this Court finds that there is substantial material on record against the applicant.



20. It is also relevant to note that the blow was made to the neck of the victim, who subsequently succumbed to his injuries. The offence as alleged against the applicant is heinous and grave, and if proved, is punishable with death or imprisonment for life.

21. The applicant cannot claim parity with the other accused persons since as per the CCTV Footage, it is stated that the fatal blow was dealt by the applicant. It is relevant to note that two of the co-accused persons– Priyanshu and Vijay were granted bail as it was found that they were not present at the spot at the relevant time and the co-accused Lokesh was granted bail essentially because his role was limited to exhortation.

22. Therefore, considering the gravity of the offence and the facts as discussed above, this court is not inclined to grant bail to the applicant at this juncture.

23. In view of the above, the present bail application is dismissed.

24. It is made clear that the observations made in the present case are only for the purpose of considering the bail application 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.

AMIT MAHAJAN, J

MARCH 27, 2025