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

+ **BAIL APPLN. 419/2025**

MR BHUPENDER @ JHOTA @ HARDEEPPetitioner
Through: **Mr. Lakshay Yadav and Mr. Gourav
Sharma, Advocates**

versus

STATE OF NCT OF DELHIRespondent
Through: **Mr. Laksh Khanna, APP for State**

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **10.03.2025**

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') read with Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'), has been filed by the Applicant seeking grant of regular bail in FIR No. 0464/2018 dated 24.09.2018 registered at Police Station (P.S.) Prashant Vihar, Delhi for offence under Section 307 of the Indian Penal Code, 1860 ('IPC').

Brief Facts

2. The case of the prosecution as borne out from the material placed on record is that on 24.09.2018, P.S. Prashant Vihar, Delhi received an information that victim, namely, Deepak has been admitted to the hospital with alleged history of stab injury. Subsequently, the statement of an eye-witness, namely, Manjit Kumar was recorded and on basis of it, the subject FIR was registered under Section 307 IPC.

2.1. It is stated that since, the victim-Deepak passed away during the



treatment, Section 302 IPC was added to the subject FIR.

2.2. It is stated that during course of investigation, statement(s) of eye witnesses were also recorded and it was also revealed that the accused-Bhupender Singh Mehra alias Jhota alias Hardeep (i.e., the Applicant herein), who was arrested in another case bearing FIR No. 546/2018 registered at P.S. Prashant Vihar, Delhi for offences under Section 25/54/59 of the Arms Act, 1959 has disclosed his involvement in the subject FIR.

2.3. It is stated after following the due process, the one-day police custody remand of the Applicant/accused was taken. Subsequently, the weapon of offence i.e., the knife was recovered on the instance of the Applicant/accused and Section 201 IPC as well as Section 25/27 of the Arms Act, 1959 ('Arms Act') were added to the subject FIR.

2.4. It is stated that the investigation in the subject FIR has been completed and charge-sheet dated 14.02.2019 stands filed.

2.5. It is stated that the charge-sheet dated 14.02.2019 in the subject FIR has been filed under Section 302/201 IPC and Section 25/27 of the Arms Act has been filed before the Trial Court and charges against the accused persons have been framed under Section 302 IPC and Section 25/27/54/59 of the Arms Act. The Trial is at the stage of recording of prosecution evidence.

Arguments on behalf of the Applicant

3. Mr. Yadav, learned counsel for the Applicant states that the Applicant/accused has been falsely implicated in the subject FIR.

3.1. He states that till the date of filing of the present bail application, the prosecution has examined 10 witnesses out of 26 witnesses. He states that even after the lapse of six (6) years, the prosecution has not preferred to



examine the complainant i.e., Manjit Kumar, who is alleged to be an eye-witness of the incident narrated in the charge-sheet.

3.2. He states that it is unlikely that the trial will be concluded in near future and the Applicant/accused cannot be subjected to long incarceration, waiting for the examination of all the eye-witnesses for grant of regular bail.

3.3. He states that the Applicant herein cannot be denied of his valuable right to speedy justice. He states that the matter is next listed on 01.05.2025 and the Trial Court is over-burdened.

3.4. He states that since, the investigation in the present case has been completed, the Applicant/accused is not in position to tamper with the prosecution evidence.

3.5. He states that in view of the aforesaid, this Court may be pleased to release the Applicant/accused on regular bail in the subject FIR.

Arguments on behalf of the State

4. In reply, Mr. Laksh Khanna, learned APP opposes the bail application of the Applicant.

4.1. He states that there is sufficient material on record which shows the involvement of the Applicant herein in the commissioning of the offence of murder of the deceased, namely, Deepak.

4.2. He states that the Applicant herein cannot be enlarged on regular bail, as the material public witnesses, who are eye-witnesses i.e., Manjeet Kumar, Ranjay Prasad and Rakesh Shokeen have not been examined till date.

4.3. He states that the examination of the said witnesses is also important, as one of the public witness Manoj Das has already turned hostile and therefore, the examination of other eye witnesses is relevant to prove the case of the prosecution. He states infact matter was listed before the Trial



Court on 06.02.2025 for the testimony of eye-witness Mr. Ranjay Prasad; however, the said witness failed to appear. He states that prosecution is taking steps for producing the eye-witnesses.

4.4. He states that the allegation against the Applicant herein are serious in nature and the Applicant may extend any kind of threat to the material public witnesses, if the Applicant is enlarged on bail. He states that the Applicant has criminal priors and refers to pendency of FIR No. 302/2017 and FIR No. 546/2018, both registered at P.S. Prashant Vihar against the Applicant

Findings and Analysis

5. This Court has heard the learned counsels for the parties and perused the record. The status report/reply filed by prosecution before this Court has been taken into consideration.

6. Before delving into the analysis of the facts of this case, it would be apposite to refer to few decisions of the Supreme Court on grant of bail. The Supreme Court in the case of **Prasanta Kumar Sarkar v. Ashis Chatterjee**¹, **State of Uttar Pradesh v. Amarmani Tripathi**², and **Deepak Yadav v. State of Uttar Pradesh**³ has set out the conditions to be considered by Court while granting bail, which are summarized as under: -

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;

¹ (2010) 14 SCC 496

² (2005) 8 SCC 21.

³ (2022) 8 SCC 559.



- (v) character, behavior, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of justice being thwarted by the grant of bail.

7. In the order passed by the Supreme Court on 27.11.2024 in Special Leave Petition (Criminal) No. 13378 of 2024 titled as **X v. State of Rajasthan**⁴, the Supreme Court made observations vis-à-vis for grant of bail in cases involving serious offenses, when the trial has begun. The relevant portion of the said order reads as under: -

“14. Ordinarily in serious offences like rape, **murder**, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court **should be loath** in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. **We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused.** The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

(Emphasis Supplied)

⁴ 2024 SCC OnLine SC 3539



8. In the present case the trial is in progress and 10 witnesses have already been examined and there is nothing on record to suggest that the trial is not progressing. The aforesaid judgment has a direct bearing on the facts of the present case.

9. Moreover, the fact that the witness Mr. Manoj Das has turned hostile and another eye-witness Mr. Ranjay Prasad has failed to appear despite summons are crucial factors to be borne in mind while considering the present application for bail. The said facts raised a reasonable apprehension of the witnesses being influenced.

10. The Supreme Court in **Ishwarji Nagaji Mali v. State of Gujarat**⁵, while cancelling a bail granted by the High Court, noted as under: -

“14. Therefore, looking to the seriousness of the offence and looking to the nature and gravity of the offence committed by Respondent 2, the High Court ought not to have released Respondent 2 on bail. While releasing Respondent 2 on bail, the High Court has not at all considered the parameters to be considered while releasing the accused on bail and that too in a serious offence of murder and hatching conspiracy to kill his wife. The impugned order [Lalitbhai Ganpatji Tank v. State of Gujarat, 2021 SCC OnLine Guj 2400] passed by the High Court releasing Respondent 2 cannot be sustained and the same deserves to be quashed and set aside.”

(Emphasis Supplied)

11. In the facts of this case, the Applicant has been charged under Section 302 IPC. There are atleast two other FIRs pending against him and the Applicant was on bail in FIR No. 302/2017, when the incident which is the subject matter of the present FIR occurred on 24.09.2018. The witness Manoj Das has been declared hostile by the prosecution and dropped. The

⁵ (2022) 6 SCC 609



other eye-witness Mr. Ranjay Prasad has failed to appear before the Trial Court on 06.02.2025 despite issuance of summons. The testimony of eye-witnesses Manjit Kumar, Rakesh Shokeen and Ranjay Prasad is yet to be recorded. In these facts on a holistic appreciation of facts and the law laid down by Supreme Court in **X v. State of Rajasthan** (supra), this Court is of the opinion that enlarging the Applicant on bail is likely to jeopardize a fair trial.

12. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

13. Accordingly, the present application is dismissed.

14. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

MARCH 10, 2025/hp/MG