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

+ **BAIL APPLN. 439/2025**

JUNAID

.....Petitioner

Through: Mr. Kush Sharma, Mr. Nischaya
Nigam and Mr. Vagmi Singh,
Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
with Neeraj Kumar, PS Anand Parbat

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

18.03.2025

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1. By this order, I propose to decide the bail application filed on behalf of petitioner/accused under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023.

2. Mr. Sharma, learned counsel for the petitioner submits that it is a case of no evidence. There is no CCTV footage, finger prints and scientific evidence to corroborate the allegations against the present applicant, who has been apprehended merely on the disclosure statement of the co-accused. It is further submitted that there is no public witness of recovery and the alleged recovery has been planted on the accused to falsely implicate him in the present case. It is also argued that the accused is in custody for more than three years and the trial is still at an initial stage.

3. *Per contra*, learned Additional PP has argued that out of 31 witnesses cited by the prosecution, 9 witnesses have been examined so far. Learned



Additional PP submits that prosecution is strongly relying upon the recovery of stolen mobile phone, through which the accused had booked the cab as also the recovery of keys of the cab of victim from the accused. It is submitted that the testimonies of police officials cannot be discarded merely on the ground that there is no public witness of recovery. It is further submitted that following the same *modus-operandi*, accused committed another murder on the same day and is facing trial in case FIR No. 0024/2022 under Section 392/302/34 IPC, PS Bharat Nagar. He is also stated to be involved in another case bearing FIR No. 0109/2021, under Section 392/397/411/34 IPC, PS Anand Parbat. It is argued that the allegations qua the present petitioner are grave and serious in nature, and therefore, he does deserve the grant of liberty of bail.

4. As per prosecution version, on 07.01.2022, PCR van noticed a Wagon R car parked outside Ramjas College Ground, wherein, one person was found in an unconscious condition. The said person was taken to the hospital, where he was declared dead. During investigation, police came to know that the said vehicle was running with Uber company.

5. Upon enquiry from the said company, it was revealed that mobile number of the deceased was 9810564050 and the last booking was from mobile No. 881202984, which was found in the name of one Hari Shankar Gupta.

6. When contacted, Hari Shankar Gupta informed the police that his mobile phone was lost on 06.01.2022, for which, he had already lodged a report.

7. From the CDR of the mobile phone No. 8851202984, it was revealed that after 06.01.2022, several calls were made from this number to another



mobile No. 9811315641, which was found registered in the name of one Pradeep and this number was being used by his son Akash @ Akku (accused). It was found that to book the taxi, the SIM of lost mobile No. 8851202984 was used in the mobile phone belonging to accused Akash @ Akku. Accordingly, accused Akash @ Akku and the present petitioner were arrested on 08.01.2022. Later on, one another associate, who is a CCL, was also apprehended on 13.01.2022.

8. During investigation, the mobile phone from which the taxi was booked, was recovered from the house of accused Akash @ Akku and the keys of taxi and mobile phone make 'Oppo' was recovered from the house of the present petitioner. The looted purse having identity cards/debit cards of the deceased and the mobile phone of the deceased were recovered at the instance of the CCL.

9. Learned Additional PP submitted that the mobile phone make 'Oppo' recovered from the petitioner was found having IMEI number which pertained to the mobile phone of Hari Shankar Gupta. It is further submitted that during investigation, police tried to start the Wagon R car of the deceased with the keys recovered from the petitioner and the car came to be started.

10. Learned counsel for the petitioner submits that PW-2 Hari Shankar Gupta, in his cross-examination, has stated that he could not see the face of the offenders who had robbed his mobile phone and that he identified the accused at the instance of a lady Advocate, standing with him in the court. It is thus argued that the testimony of PW-2 Hari Shankar Gupta is not believable.



11. Admittedly, the case against the petitioner is based upon circumstantial evidence. The prosecution is strongly relying upon the recovery of the key of the cab of the victim and the mobile phone whose SIM was used for booking the cab at the instance of the present petitioner. Such recovery cannot be disbelieved at this stage merely on the ground that there is no public witness of recovery. The evidentiary value of the testimony of PW-2 Hari Shankar Gupta also cannot be looked into at this stage. The appreciation of his evidence and the value to be attached to his testimony can be considered only at the stage of final arguments.

12. The allegations qua the present petitioner are grave and serious in nature. Keeping in view the nature and gravity of allegations as also the fact that accused is involved in two more cases, including a murder case, in my view, this is not a fit case for grant of bail to the accused at this stage. The bail application is therefore dismissed.

RAVINDER DUDEJA, J.

MARCH 18, 2025

RM