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

+ **BAIL APPLN. 491/2025**

SACHIN @ KAPIL @ AARUSHApplicant

Through: Mr. Shikhar Goel, Adv.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Aashneet Singh, APP
for the State with Insp.
Sarvesh, PS CR Park and
Insp. Vipin, PS Vasant
Kunj.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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26.03.2025

1. By the present application, the applicant seeks regular bail in FIR No. 319/2021 dated 02.11.2021, registered at Police Station Chitranjan Park, for offence under Section 302 of the Indian Penal Code, 1860.
2. The bail application filed by the applicant on the earlier occasion was permitted to be withdrawn by order dated 05.08.2024 passed by this Court. The learned counsel for the applicant had taken liberty to file an appropriate petition at a later stage.
3. The learned counsel for the applicant submits that few more witnesses have been examined and there are discrepancies in their testimonies. He submits that the present application has been filed since some grounds were not agitated on the earlier occasion and the same is change in circumstances.
4. The Courts, on occasions, permit the applicants to



withdraw bail applications when they are not inclined to allow the same. The Courts permit bail applications to be withdrawn instead of dismissing the same since the order dismissing bail applications have the tendency of prejudicing the Trial Courts on the merits of the case. However, that does not mean that the applicants are permitted to file repeated bail applications after examination of each subsequent witness.

5. This Court in ***Raj Kumar v. State (NCT of Delhi) : 2006 SCC OnLine Del 112*** held that dismissal of bail application as withdrawn should be treated as rejection on merits because as a matter of practice, the counsel withdraws the bail application only when they find that the Court is not inclined to exercise the discretion in his favour.

6. The applicant has been charged for offence under Section 302 of the IPC for which the minimum punishment is upto life, The Hon'ble Apex Court, recently, in the case of ***X v. State of Rajasthan & Anr. : 2024 INSC 909***, in a challenge to the order passed by the High Court of Judicature for Rajasthan whereby the bail application filed by the accused was allowed observed 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.”

7. The learned Additional Public Prosecutor for the State informs that 14 witnesses have already been examined. Thus, in the opinion of this Court, the trial has been proceeding expeditiously.

8. The applicant has not cited any reason as to why such grounds as the ones sought to be raised could not be agitated on the previous occasions. While it is the right of the accused to prefer successive bail applications when there is a change in circumstance, it cannot be denied that if an accused is allowed to persistently file repeated applications merely on the contention that he was unable to take some grounds previously, the same would only lead to filing of endless applications unless a favourable order is received.

9. I therefore find no reason to entertain the present application.

10. The present application is, therefore, dismissed.

AMIT MAHAJAN, J

MARCH 26, 2025

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