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

+ **BAIL APPLN. 483/2025**

ARUN

.....Petitioner

Through: Mr. C.M. Sangawan and Mr.
Saksham Aggarwal, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Aman Usman, APP with
Inspector Mahendra Kumar, PS-
Shahbad Dairy.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

23.04.2025

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1. This is an application for grant of regular bail under Section 483 of BNSS, 2023 (Old Section 439 Cr.P.C.) filed on behalf of petitioner namely Arun.

2. The learned counsel for petitioner submits that out of the 06 public witnesses cited by the prosecution, 3 have already examined. Complainant Ajay @ Modi has been examined as PW-1 and there are major contradictions and improvements in his testimonies from the statement made under Section 161 Cr.P.C. He further submits that all the public witnesses are planted witnesses, they were not present at the spot. Furthermore it is submitted that statement of Shivani, who is a transgender, was recorded under Section 164 Cr.P.C. after more than two months of the incident with a view to falsely implicate the applicant/petitioner.



3. It is also submitted that the incident allegedly took place on 23.05.2022 but first information about the incident was made on 24.05.2022 vide GD No.0012A and the petitioner is not named even in such information so recorded.

4. It is also argued that PW-1 in his testimony has not assigned any specific role against the present petitioner. According to learned counsel of the applicant, PW-2 Prakash and PW-3 Deepak have turned hostile and have not supported prosecution's case. It is further submitted that co-accused Deepak @ Vipin and Avinash @ Krishna were admitted to bail by the Trial Court on 28.04.2023 and 22.11.2022, respectively. It is further submitted that petitioner is in custody since 29.05.2022.

5. The learned APP has opposed the bail application submitting that two more public witnesses of the incident namely Chetan and Shivani have yet not been examined. He states that PW-1 has substantially supported the prosecution story. According to him, during investigation, the Investigating Officer had collected the call detail records of the mobile phone of the accused and as per the same, the location of the petitioner has been found at the spot at the time of the incident.

6. It is also submitted that co-accused Deepak @ Vipin has been granted bail as he was initially not named in the statements of the witnesses recorded under Section 161 Cr.P.C. With regard to co-accused Avinash, it is submitted that his role is different inasmuch only his vehicle was used for disposing of the body of the victim. It is argued that the allegations against the petitioner are grave and serious in nature.

7. The FIR in this case has been registered on the statement of Ajay. As per the allegations, on 23.05.2022 at about 10:30 PM, Ajay, Chetan @



Chintu, Deepak, Prakash and Sandeep @ Paji(deceased) were walking on the road near Akhara in Murga Markket, Shahbad Dairy. Co-accused Shri Kishan along with his brother Rajkumar and his nephew Rohit and Arun (petitioner) along with their friends Sohail and DK came there. They stopped the complainant and his friends. They surrounded Sandeep @ Paji and threatened him “तुझे शिवानी हिजड़े से दूर रहने को कहा था आज हम तुझे जिंदा नहीं छोड़ेंगे”.

8. Upon this the complainant and his friends fled from the place of occurrence. They heard the sound of firing. Sandeep @ paji was missing since the time of the incident.

9. During investigation, on 25.05.2022, the body of the Sandeep @Paji was recovered from a canal near Haiderpur. Thereafter, Section 302/201 IPC were added in the case.

10. The motive which prompted the commission of murder as per the prosecution version is that there was relationship between the deceased Sandeep @ Paaji and transgender Shivani.

11. PW-4 Chetan in his statement under Section 161 Cr.P.C. stated that because of the relationship of Sandeep @ Paji and Shivani, about three days prior to the date of occurrence, they were threatened by the accused persons.

12. The learned counsel for the petitioner has pointed out certain contradictions in the testimonies of the witnesses recorded before the Court. Such contradictions are not to be looked into at the stage of grant of bail. Since the trial has already commenced, any observation with regard to such contradictions or inconsistencies as pointed out may cause prejudice to



either of the parties.

13. The nominal roll received from the Jail indicates that petitioner has criminal antecedents inasmuch as he is involved in two more cases. Admittedly, two material witnesses are yet to be examined. The possibility that upon being released on bail, the petitioner may threaten or intimidate them cannot be ruled out at this stage.

14. Considering the nature and gravity of allegations and the severity of punishment, I am of the view that this is not a fit case for grant bail. The application is, therefore, dismissed.

RAVINDER DUDEJA, J

APRIL 23, 2025

Sky/NA