



2025:DHC:3214



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02.05.2025

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BAIL APPLN. 725/2025**BARKAT ALI**

.....Petitioner

Through: Mr. Gajraj Singh, Advocate.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with IO/Inspector Surender Sharma.**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. In furtherance of last order, current Status Report has already been filed. I heard learned counsel for accused/applicant and learned APP for State assisted by Investigating Officer/Inspector Surender Kumar.
2. The accused/applicant, suffering incarceration since 25.07.2021 seeks to be released on bail in case FIR No. 348/2021 of PS Swaroop Nagar for offences under Section 302/365/396/412/120B/34 IPC.
3. Broadly speaking, the prosecution case is as follows. On 03.07.2021 at about 06:59am, an information was received in PS Swaroop Nagar



regarding discovery of a dead body of a male on main G.T. Karnal Road, near Mohan Villas Farm House. The police official who visited the spot found the dead body smeared with blood with deep cut on throat caused by a sharp edged weapon. The crime team visited the spot and collected physical articles of evidence, shifting the dead body to mortuary for preservation and identification after preparation of the MLC. On the basis of the said information, FIR No.348/2021 for offence under Section 302 IPC was registered by police station Swaroop Nagar. On 05.07.2021, the body was identified to be of one Satpal Singh and after postmortem, the body was handed over to relatives of the deceased. Further investigation revealed that Satpal Singh was a driver in a transport company and after loading his container with 300 bags of *Pan Masala* and *Zarda*, to be delivered in Odisha, he started his journey, in the course whereof he was murdered at main G.T. Karnal Road and his container was looted/robbed. On 07.07.2021, the looted truck was found empty and abandoned at Western Peripheral Way near Bahadurgarh, Haryana and the same was seized by the Investigating Officer. The seized truck was inspected by FSL team, which lifted the blood stains also from the same and sent the same for forensic opinion. In the meanwhile, in case FIR No.238/2021 of PS Bhamora, Bareilly, Uttar Pradesh, the present accused/applicant and his associates Shahid and Rehan were arrested for offence under Section 411/414 IPC while trying to dispose of the looted *Pan Masala*. At the instance of the accused/applicant 30 bags of *Pan Masala* were recovered by the UP police.



On the basis of his confessional statement in custody in the said FIR, the accused/applicant was arrested in the present case. According to prosecution, the said three accused persons in a conspiracy looted the container and murdered its driver.

4. In the above backdrop, learned counsel for accused/applicant contends that this is a fit case to grant bail to the accused/applicant, since there is no evidence to connect the accused/applicant with the alleged killing of the truck driver and looting of *Pan Masala*. It is also submitted by learned counsel for accused/applicant that alleged recovery of *Pan Masala* was, even according to prosecution, a joint recovery carried out at the instance of two accused persons.

5. On the other hand, learned APP for State strongly opposes the Bail Application on the ground of gravity of offence and contends that the IO has also collected CDRs reflecting telephonic connectivity between the accused persons. It is also submitted by learned APP that lower garment worn by the accused/applicant at the time of the alleged occurrence and the weapon of offence, both of which were stained with blood of the deceased were recovered at the instance of the accused/applicant.

6. As mentioned above, this case is based on circumstantial and not direct evidence. The only evidence relied upon by prosecution against the accused/applicant is recovery of *Pan Masala* cartons at his instance and his telephonic connectivity with the other accused persons. No other evidence is



there to connect the accused/applicant with the alleged murder.

7. So far as the telephonic connectivity is concerned, I find substance in submission of learned counsel for accused/applicant that accused persons being truck drivers by occupation, their telephonic connectivity cannot be treated as suspicious circumstance, much less an incriminating evidence.

8. Coming to the alleged weapon of offence and clothes of the accused/applicant recovered allegedly at the instance of the accused/applicant, learned APP on instructions of the Investigating Officer fairly admits that the FSL failed to find blood of the deceased on the same. Even otherwise, so far as the weapon of offence is concerned, it was recovered at the instance of co-accused Rehan and not the accused/applicant, even as per the investigation.

9. Admittedly, the crime team despite visiting the spot opted not to pick chance prints from the truck or even the *Pan Masala* cartons. Even the batch number of the allegedly looted *Pan Masala* cartons and/or the allegedly recovered *Pan Masala* cartons were not obtained by the Investigating Officer.

10. As per the prosecution case, the alleged murder was committed with a razor by slitting throat of the deceased. But the MLC is completely silent about any injury, what to say of a heavily bled cut wound on throat. This aspect was pointed out to the Investigating Officer on last to last date, but no



investigation in this regard has been carried out. It is a matter of serious concern that the dead body was found in pool of blood with throat slit, which aspect was confirmed in the postmortem report but the MLC does not record the same. Going by the postmortem report, it was a conspicuously visible major injury. It seems that the doctor recording the MLC did not even see the dead body. Courts place heavy reliance on Medico Legal Records and it is expected from the doctors not to be careless in discharging their duties. On this aspect, copy of this order be sent to the Medical Superintendent Babu Jagjivan Ram Memorial Hospital for information and necessary action.

11. Considering the above circumstances, I find no reason to deprive the accused/applicant of his liberty anymore. The application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court.

12. Copy of this order be sent to concerned Jail Superintendent for information of the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

MAY 2, 2025/ry