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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 769/2025 & CRL.M.A. 5574/2025

SANJAY

.....Applicant

Through: Mr. Gopesh Tripathi, Mr.
Hem Kumar and Mr.
Utkarsh Tripathi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Arvind Bhinwal, PS GTB
Enclave.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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30.04.2025

1. The present application is filed seeking regular bail in FIR No. 117/2018 dated 29.05.2018 registered at police station GTB Enclave for offence under Section 365 of the Indian Penal Code, 1860 ('IPC'). The charge sheet has been filed in the present case under Sections 364/302/201 of the IPC.
2. The brief facts of the case are that a missing report was lodged by the complainant of his daughter ('the victim') on 26.04.2018. The FIR was registered pursuant to a written complaint given by the complainant alleging that the complainant had seen the applicant drop her to the house and upon inquiry with him, he was not giving straight answers. It was alleged that the complainant has strong suspicion that the applicant had taken his daughter somewhere with bad intention by coercing her.
3. During the course of investigation, information was received from the Crime Branch, Daryaganj, Delhi regarding the



arrest of the applicant along with another co-accused person namely– Varun, who were involved in the present case, whereafter they were formally arrested on 30.05.2018 and remained in Police Custody for three days after obtaining remand from the concerned Court. On being interrogated, the applicant disclosed that he had gone to Ankur Bhawan Hotel, Madhu Vihar, Delhi with the victim, who he stated to be his girlfriend, and stayed in Room No. 104 of the Hotel, where they had taken drugs and had established physical relations. He stated that later, the victim had informed him about being pregnant and threatened to implicate him in a false rape case, which led to the applicant strangulating her till she died.

4. He disclosed that he had put the body of the victim in the backseat of Alto car bearing No. DL-13CA-4772, that he had borrowed from his friend namely– Hitesh and with the help of his friends namely– Varun and Sakil Malik, he disposed of the body in Ram Ganga River.

5. During investigation, it was revealed that a case *vide* FIR No. 346/ 2018 dated 24.04.2018 was already registered under Sections 302/ 201 of the IPC at Police Station Katghar, District Muradabad, Uttar Pradesh on receipt of the dead body of the victim.

6. CCTV footage of Ankur Bhawan Hotel was obtained and seized by the investigating authority, wherein the applicant can be seen. The entry register of the Hotel was checked in which on 21.04.2018 on Sr. No. 648, Room No. 104 was allotted to the applicant on his ID Card. The night manager of the Hotel namely– Guatam Kumar was interrogated, who identified the applicant. The Alto car bearing No. DL-13CA-4772 involved in the incident was recovered at the instance of the applicant. Toll



tax slips and other details were obtained from Joya Toll Plaza, UP, which revealed that on 23.04.2018, the Alto car bearing No. DL-13CA-4772 had entered and returned from Ram Ganga River.

7. During the course of investigation, co-accused Sakil Malik was arrested on 31.10.2018.

8. The Post Mortem Report dated 24.04.2018 of the victim revealed that the death took place three days prior and the cause of death was asphyxia due to antemortem strangulation. The victim had contusion below the chin, hematoma around trachea and fracture in hyoid bone and vertebrae.

9. The application seeking regular bail filed by the applicant on an earlier occasion was dismissed by the learned Trial Court, while noting that the present case involves a serious offence and material evidence has been placed to show the involvement of the applicant.

10. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant has been languishing in custody for last more than 6 years and 10 months, and the trial is not likely to conclude in the near future. He submits that 37 witnesses still remain to be examined, and prays that the applicant be enlarged on bail on account of the delay in trial.

11. He submits that the co-accused persons Varun and Sakil have already been released on bail in the year 2018, and therefore the applicant is entitled to be released on grounds of parity.

12. He submits that the cause of death being asphyxia may have been caused due to drug overdose, as the victim was consuming drugs and was a drug addict.

13. He submits that there was no complaint against the



applicant from 26.04.2018, ^{that} the date when the missing report was lodged, to 29.04.2018, that is when the FIR was registered. He further points out that both the FIR and complaint were filed with a delay, since the victim had gone missing on 20.04.2018 itself.

14. *Per contra*, the learned Additional Public Prosecutor for the State ('APP') vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature. He submits that at the applicant is not only involved in the murder of the victim, but also disposing of the body of the victim with the help of the co-accused persons.

15. He submits that as per the SCRB report the applicant is involved in 14 other cases. It is pointed out that the car used to dispose the body of the victim is yet to be examined and therefore there is a high chance of the applicant tampering with the evidence.

16. The Hon'ble Apex Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

17. In the present case, the applicant is alleged to have abducted the victim and committed her murder and thereafter disposed of her body in the river. It is alleged that the applicant was in a relationship with the victim and was often seen dropping her at her house. As per the disclosure statement of the applicant, he had gone along with the victim to Ankur Bhawan Hotel where



they had consumed drugs and established physical relations with her, however, on the victim being pregnant and threatening the applicant to implicate him in a false rape case, he strangled her and disposed of her body in Ram Ganga River, with the help of the co-accused persons.

18. The applicant has been charged for the offence under Section 302 of the IPC for which the minimum punishment is upto life. In such cases, the Court should consider the nature of allegations, the manner in which the offence is alleged to have been committed and the desirability of releasing the accused on bail.

19. As noted above, the body of the victim was recovered in Muradabad District, Uttar Pradesh. The material obtained from the Hotel such as the CCTV footage and the entry register corroborates with the disclosure statement of the applicant, that he had taken the victim there on 21.04.2018. The applicant has also been identified by the manager of the hotel. The toll tax slips obtained reveals the Alto car bearing No. DL-13CA-4772 which was stated to be used by the applicant in disposing the body of the victim, had entered and returned from Ram Ganga River on that on 23.04.2018. As per the Post Mortem report the cause of death of the victim was asphyxia due to antemortem strangulation.

20. Accordingly, taking into account the evidence available on record, the submissions made by the learned counsel for the parties and the status report filed by the State, this Court is of the opinion that *prima facie*, there are serious allegations against the applicant which at this stage, cannot be said to be without any material or frivolous or that the applicant is sought to be falsely implicated. The nature and gravity of the allegations are serious.



The material presented by the prosecution establishes a *prima facie* involvement of the applicant. The evidence would be tested after the trial is completed.

21. It is well settled that the grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, *albeit* briefly, factors such as the *prima facie* case, the severity of the crime and the accused's likelihood to tamper with evidence, among other considerations.

22. In the present case, the applicant has also been charged with Section 201 of the IPC for disposing of the body of the victim in the river. As pointed out by the learned APP for the State, material witnesses and also the car used to dispose the body of the victim are yet to be examined. Moreover, it is relevant to note that the applicant is previously involved in 14 other cases besides the present one, as per the SCRB report. As per the Nominal Roll placed on record, the conduct of the petitioner in jail is also unsatisfactory. In such circumstances the Court must carefully balance the individual's right to liberty with the interests of justice.

23. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence and its impact on society.

24. It is also pertinent to note that the orders granting bail to the co-accused person have no bearing on the case of the applicant, as the role of the co-accused persons in the present case is *prima facie* limited to the aid provided by them in disposing the body of the victim. The applicant cannot seek parity with the same.



25. It is pointed out that the applicant has been in custody for more than 6 years and 10 months. It is trite that long period of incarceration is a factor to be considered while deciding the question of bail. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb* : AIR 2021 SC 712**, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

26. The long period of incarceration alone cannot be a single factor for grant of bail especially when the allegations against the applicant are *prima grave* and serious in nature. The applicant is charged for an offence under Section 302 of the IPC wherein the minimum punishment is imprisonment for life. For this reason, even though there has been a long period of incarceration, yet the same cannot be the only reason to grant bail to the applicant at this stage.

27. Considering the aforesaid, this Court is not inclined to grant bail to the applicant at this stage. It is stated that out of 43 witnesses, only 7 witnesses have been examined. In view of the above, the learned Trial Court is directed to expedite the trial and conclude the examination of witnesses within the next one year.

28. In view thereof, the petition stands dismissed.

29. It is made clear that the observations made in the present case are only for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

APRIL 30, 2025

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