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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 890/2025 & CRL.M.A. 6628/2025**

DEVENDER

.....Applicant

Through: Mr. Ravi Drall &
Ms. Aditi Singh, Advs.

versus

THE STATE OF NCT DELHI

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State with Ms.
Divya Yadav & Mr. Lalit
Luthra, Advs.
Inspector Sanjay Dahiya,
PS- Punjabi Bagh
Inspector Pankaj Kumar,
PS- Nizamuddin

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

13.05.2025

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1. The present application is filed seeking regular bail in FIR No. 787/2020 dated 26.09.2020 for offences under Sections 325/323/34 of the Indian Penal Code, 1860 ('IPC') registered at Police Station Punjabi Bagh. Chargesheet has been filed in the present case under Sections 302/ 307/ 34/ 174A/ 394 of the IPC.
2. Briefly stated, the facts of the case are that on 26.09.2020 upon receiving information from Shree Acharya Bhikshu Govt. Hospital, Moti Nagar, Delhi about MLC No. 4591/ 2020, 4592/ 2020, 4594/ 2020 and 4595/ 2020 in respect of 4 injured persons namely– Jagdish, Meera, Anjali and Rahul, the police officials reached the Hospital and collected the MLCs. Injured Jagdish was shifted to RML Hospital, where the IO recorded his

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statement, pursuant to which the PCR was registered.

3. In his statement, Jagdish stated that he was beaten by four persons namely– Deva, Sonu, Nikku and one unknown person who was later found to be Kuldeep @ Monu. He stated that his wife was also beaten by the wives of Sonu, Deva and Hemraj and his children Rahul and Anjali also sustained injuries while trying to save them. On the same day, information was received from RML Hospital, that Jagdish was declared dead during his treatment. The post-mortem Report of the deceased Jagdish was collected wherein the Doctor opined the cause of death to be *“Death is due to cranio-cerebral damage and its complications consequent upon blunt force trauma to head which could be possible in the alleged circumstances.”*

4. The applicant along with co-accused Sonu, was arrested on the same day on 26.09.2020. During the investigation, five other co-accused persons, except Nikku, were also arrested. Co-accused Nikku was arrested on 28.02.2025.

5. One black Oppo mobile phone was recovered from the house of the applicant, which belonged to the wife of the deceased namely– Meera. Two *dandas* which were alleged to be the weapon of offence, were recovered at the instance of the applicant, near the crime scene.

6. As per the statement of the injured witnesses as well as one eye-witness who made the PCR call, namely– Suraj Pal, all seven accused persons attacked on the family of the deceased with an intention to kill them.

7. The bail application filed by the applicant on an earlier occasion was dismissed *vide* order dated 11.02.2025 passed by the learned Trial Court on the ground that the allegations against the applicant are serious in nature wherein the victim was beaten



to death and his family has been injured.

8. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

9. He submits that the role assigned to him has not been proved by the prosecution as no motive has been attributed to him which is a necessary ingredient to bring home the charge for Section 302 of the IPC.

10. He submits that there are various improvements in the story of the prosecution witnesses with regard to the weapon of offence, since the adding of Section 302 of the IPC to the present case.

11. He submits that as per the case of the prosecution the deceased was brought to RML Hospital at 6:30 AM on 26.09.2020, whereafter he left the Hospital premises without informing any medical staff and returned back at the Hospital at 3:00 PM, pursuant to which he died at 8:00 PM. He submits that absence of the deceased from the Hospital for about 8 hours is suspicious. He submits that the deceased used to sell illegal liquor which he might have consumed, which could have led to his death.

12. He further points out that the applicant has been in custody for almost 4 years and the trial has still not concluded. He submits that since the chargesheet has been filed and important witnesses have been examined, no purpose will be served by subjecting the applicant to further incarceration.

13. *Per contra*, the learned Additional Public Prosecutor ('APP') for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature and witnesses are yet to be examined.



14. I have heard the learned counsel and perused the record.
15. The Court, while considering such applications, has to keep certain factors in mind, such as: (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.
16. It has been held in a catena of judgments that while considering an application of the accused seeking bail, the Court would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused as the same is a matter of trial.
17. In the present case, the allegations against the applicant are that he along with the other co-accused persons, had beaten deceased Jagdish, his wife and his two children with *dandas*, which lead to the death of Jagdish.
18. 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 or flee justice while on bail, among other considerations.
19. PW1, the daughter and PW2, wife of the deceased have correctly identified the applicant and narrated the incident in corroboration with the prosecution story. PW 2 stated that the applicant and other accused persons were neighbours. She stated that the applicant was using foul language towards her family when they were sitting outside their jhuggi, whereafter he started



beating her husband, and also gave a fist blow to her, due to which she fell on the road. She also stated that the applicant had snatched her phone during the incident. PW1 stated that the applicant was working as a Gym Trainer, who along with co-accused Sonu snatched the phone from her mother and further, in regard to the applicant, she stated – “*aur jo aksar mere papa ko dadagiri dikhata tha*”.

20. As per the statement of PW4, Suraj Pal, who was the eye-witness and who dialled the PCR, he witnessed a fight between the deceased and the applicant along with co-accused Sonu, whereafter more persons gathered there. He stated that the applicant along with his friends were beating the deceased with *dandas*, legs and fist blows. He states that he was also attacked by the applicant, whereupon he ran away towards the CNG Pump, where he met Rahul, son of the deceased, who was very scared, on which he called dialled 100 number. PW 4 stated that the applicant had taken the phones of the family members of the deceased so that they are unable to call the Police.

21. PW6, Rahul, stated that the applicant along with other co-accused persons inflicted beatings on his father with an intention to kill him. He stated that they used kicks, fist blows and *dandas*. He stated that the applicant had hit his mother. He stated that when he tried to save his mother, the applicant chased him, on which he ran away from the place incident and reached the CNG Pump, where he met Suraj Pal. PW6 has also correctly identified the applicant.

22. As per material on record, the phone of the wife of the deceased has been recovered from the house of the applicant, and two *dandas* were recovered from near the crime scene, at the instance of the applicant. The same were seized through seizure



memo.

23. The post-mortem Report of the deceased states that the cause of death was “....*due to cranio-cerebral damage and its complications consequent upon blunt force trauma to head which could be possible in the alleged circumstances.*” A subsequent opinion was obtained from the Doctor who conducted the post-mortem of the deceased, regarding the weapon of offence. The Doctor opined as under:

“(i) *The external injuries mentioned in the post mortem report, which are 1-15 in number caused by blunt force impact.*
(i) *Injury no. 1,3,4,5,11,13,14, and 15 are more likely to be caused by these or similar type of weapon.*
(ii) *However, injury no. 2,6,7,8,9, 10 and 12 are less likely to be caused by these alleged weapons of offence.*”

24. Accordingly, taking into account the evidence available on record, statements of the witnesses and the submissions made by the learned counsels for the parties, this Court is of the opinion that *prima facie*, there is cogent material on record at this stage to show the involvement of the applicant, and therefore, this Court is not inclined to grant bail to the applicant at this juncture.

25. The learned APP for the State informs that out of 37 witnesses, 10 have been examined. Thus, in the opinion of this Court, the trial has been proceeding expeditiously, and at this stage it cannot be presumed that the trial will not conclude in a timely manner.

26. The applicant has been charged for the 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 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.”

27. In view of the above, the present application is dismissed.

28. The learned Trial Court is directed to expedite the trial and conclude the examination of witnesses to ensure that justice is served in a timely manner.

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

MAY 13, 2025