



2025:DHC:1900



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 21.03.2025

+ BAIL APPLN. 944/2025

MOHD NASIM

.....Petitioner

Through: Mr. Deepak Kohli, Adv.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State.

Insp Rizwan Khan, PS Amar Colony.

CORAM:-**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT (ORAL)****RAVINDER DUDEJA, J.**

1. This is an application filed by the petitioner under Section 482, BNSS (Old Section 438 Cr. PC), seeking anticipatory bail in case FIR bearing No. 94/2024, under Section 302/114/34 IPC, registered with PS Amar Colony, Delhi.

2. Mr. Kohli, learned counsel for the petitioner submits that petitioner is not named in the FIR. There is no specific allegation against him in the FIR. Till date, no notice has been served upon the petitioner by the Investigating Officer nor any call was made to the petitioner on his phone by the IO. Investigation is complete and charge sheet has been filed against the other co-accused persons. Nothing incriminating has been found against the present petitioner. Charge



2025:DHC:1900



sheet does not even remotely connect the petitioner in the present FIR except showing that petitioner is an absconder without any basis.

3. It is further submitted that co-accused have since been enlarged on bail by the learned trial court. It has been submitted that petitioner, since the day of the alleged incident, is out and has never even tried to approach any of the witnesses, so much so, he was not even aware about his implication in the FIR in question.

4. The application has been opposed by the learned Public Prosecutor, submitting that there is sufficient evidence against the present petitioner. The CCTV footage shows the presence of the petitioner near the place of occurrence. The CDR reveals the presence of the accused at the spot. It is submitted that petitioner has not joined the investigation and has tried to evade his arrest. He is required for custodial interrogation for the recovery of his wearing clothes and the weapon of offence.

5. As per prosecution version, the dead body of the victim, who was later identified as Hussain Lehri @ Guddu, was recovered from the road in front of Shop No. M-41, Lajpat Nagar-IV. No eye witness of the incident was found at the spot. FIR was registered under Section 302 IPC. The footage of the CCTV camera installed at M-17, Lajpat Nagar-IV was analyzed. On analysis, it was found that the deceased was seen going towards shop No. M-15, which was behind shop No. M-13. Petitioner and other co-accused persons are also seen in the footage.



2025:DHC:1900



6. During investigation, the mobile phone numbers of the petitioner and other co-accused persons were obtained and were analyzed and on such analysis, it was found that co-accused Ghulam was called by his worker at 1.30 am and since thereafter, the location of Ghulam was found at the place of incident till about 1.40 am. The location of the petitioner was also found at the place of incident.

7. Prosecution is strongly relying on the evidence of CDR and the CCTV footage of the area, which shows the presence of the accused near the place of crime. In one of the photographs shown by the Investigating Officer, the present petitioner can be seen walking with one of the co-accused, who was having a danda in his hand.

8. The petitioner is required for the purpose of recovery of danda and the clothes which he was wearing on the date of incident. Admittedly, he has not joined the investigation and as informed by Investigating Officer, he has already obtained non-bailable warrants against the petitioner.

9. Admittedly, all the other co-accused have since been granted bail, but petitioner cannot claim parity, inasmuch as, they have been granted regular bail after they had already joined investigation.

10. Keeping in view the entire facts and circumstances, and in particular the fact that petitioner may be required for the purpose of custodial interrogation, in my view, this is not a fit case for grant of pre-arrest bail.



2025:DHC:1900



11. The application is therefore dismissed.

RAVINDER DUDEJA, J.

MARCH 21, 2025

RM

