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

+ **BAIL APPLN. 1277/2025**

ANUP GUPTA

.....Petitioner

Through: Mr. Sachin Dev, Advocate

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State with Insp. Brahma Dutta
Vishnoi, PS Ghazipur, Delhi

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

29.07.2025

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in the proceedings arising from FIR No. 93/2023 registered at P.S. Gazipur, for the offences under Sections 302, 120-B, 34 and 149 of the Indian Penal Code, 1860³

2. Briefly stated the facts of the case of the Prosecution are as follows:

2.1. On 21st March, 2023, GD No. 82A was recorded at P.S. Gazipur regarding the admission of Bhanu Singh, aged 20 years, to LBS Hospital vide MLC No. 1555/2023. He had reportedly sustained stab injuries and was brought to the hospital by his friend Farman. The matter was assigned to SI Vishal, who reached the hospital; however, the injured was declared unfit to give a statement.

2.2. The Investigating Officer met a friend of the injured, who informed him that Bhanu Singh had been attacked and stabbed by 6-7 individuals

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



armed with knives near Kondali Bridge, Delhi, after which the assailants fled the scene. Subsequently, an eyewitness, Md. Shahnewaz @ Sonu (the Complainant), recorded his statement, asserting that he could identify the perpetrators. Based on his statement, the subject FIR was registered, and investigation commenced. During the night of 21st/22nd March 2023, Safdarjung Hospital informed the police that the victim had succumbed to his injuries. Consequently, Section 307 IPC was replaced by Section 302 IPC in the case.

2.3. During the course of investigation, one Child in Conflict with Law⁴ ‘H’ was apprehended on 22nd March, 2023. He disclosed the names of other individuals allegedly involved in the offence, identifying them as CCLs ‘Sm’, ‘V’, ‘HS’, ‘G’, ‘PK’, ‘A’, and one Anoop (the Applicant). He stated that the group had assembled at Kondali Mor to take revenge on the deceased, an auto-rickshaw driver, who had previously supported some boys from Khora during a quarrel that had occurred after school hours involving him and his friends. In that prior altercation, his friend, CCL ‘HS’, sustained injuries; however, no police complaint was lodged in connection with that incident.

2.4. Following the aforesaid altercation, all the accused conspired to take revenge. Subsequently, CCL ‘HS’ returned home, while the remaining seven accused, including the Applicant, proceeded to Kondali Pul. There, they spotted the deceased, who attempted to flee upon seeing them, however the accused followed and apprehended him. It is alleged that the Applicant held the deceased’s hands while CCL ‘Sm’ inflicted knife blows on his person. When other auto-rickshaw drivers arrived at the scene, the accused fled the

⁴ “CCL”



scene.

2.5. Subsequently, all the seven CCLs were apprehended. During interrogation, CCL 'S' disclosed that both CCL 'V' and the Applicant had held the deceased's hands at the time of the incident.

2.6. During further investigation, it was discovered that CDRs indicate that the Applicant was in continuous contact with CCLs 'S' and 'HS' on the day of the incident. The location of the Applicant's mobile number (SDR of which belongs to the Applicant's mother), places the device near the scene of the incident at the relevant time. It was further revealed that the Applicant switched off this mobile phone following the incident. Thereafter, he purchased a new SIM card in his own name, which he used in the same handset that had been in use at the time of the incident.

2.7. The Applicant participated in a judicial Test Identification Parade,⁵ and was correctly identified by the Complainant/eyewitness. Furthermore, the Complainant supported the case of the Prosecution in his testimony before the Trial Court.

2.8. Upon completion of the investigation, a Preliminary Inquiry Report was submitted before the Juvenile Justice Board-IV against all seven CCLs involved. A chargesheet was filed against the Applicant, and on 28th November, 2023, the Trial Court framed charges under Sections 302 read with 120B and 149 of the IPC against him.

3. In the aforesaid backdrop, counsel for the Applicant urges the following grounds seeking grant of regular bail:

3.1. The Applicant has been falsely implicated in the present case and has remained in judicial custody since 9th June, 2023. The chargesheet has

⁵ "TIP"



already been filed, and the public witnesses have been examined. Accordingly, further incarceration of the Applicant would serve no purpose and would amount to punitive detention. Moreover, since the material public witnesses have been examined, the possibility of the Applicant tampering with evidence or attempting to influence witnesses stands significantly diminished.

3.2. Out of the three public witnesses, two, namely Farman (PW-6) and Raja (PW-9), have not supported the case of the Prosecution. Furthermore, the Complainant (PW-4), who purportedly identified the Applicant during the TIP, had previously stated under Section 161 Cr.P.C. that the Applicant was not present at the scene at the time of the alleged incident.

3.3. In his examination-in-chief, PW-4 stated, *“6-7 boys followed Bhanu. Raja, Farman and me also followed them. One person caught hold the hand of Bhanu from one side and another boy caught hold hand from other side. 3-4 boys told to kill Bhanu and one boy was giving knife blows to Bhanu.”* Pertinently, PW-4 merely identified the Applicant as one of the alleged assailants, without attributing any specific role or act to him in the commission of the offence, thereby casting serious doubt about his actual presence at the scene of the alleged incident.

3.4. Further, in his cross-examination, PW-4 admitted that he was carrying a mobile phone at the time of the alleged incident. Despite this, he neither contacted the police immediately, nor reported the incident while returning from LBS Hospital, even though a police station is situated between the scene of the incident and the hospital. This inaction on the part of PW-4 undermines the credibility of his testimony.

3.5. The Applicant has no prior criminal antecedents. Accordingly, in



view of the facts and circumstances stated above, the Applicant should be granted regular bail.

4. On the other hand, Mr. Ajay Vikram Singh, APP for the State, opposes the present bail application. He submits that the Applicant has been implicated in a brutal murder case, which entails capital punishment or life imprisonment. He further states that the Applicant's involvement in the alleged offence is supported not only by the testimony of eye-witnesses, but also by circumstantial evidence, including CDR analysis of the mobile number allegedly used by the Applicant. The CDRs reveal that the Applicant was in constant touch with the co-accused and was present at or near the scene of the incident at the relevant time. Accordingly, he urges, the Applicant should not be released on bail.

5. The Court has carefully considered the rival submissions advanced by the parties. At the outset, it is observed that the Applicant primarily seeks to rely upon certain inconsistencies and alleged contradictions in the testimony of the Complainant (PW-4) to seek regular bail. However, it is well-settled that at the stage of considering a bail application, the Court is not to undertake a detailed evaluation of the evidence on record or conduct a mini-trial. The scope of consideration is limited to forming a *prima facie* view based on the material available, as rendering findings on the merits of the case, at this stage, may risk prejudicing the case of either party at trial. Accordingly, the reliance placed by the Applicant on alleged discrepancies in the witness testimony, while noted, cannot by itself form the basis for grant of bail, and shall be considered at the stage of trial.

6. For the limited purpose of deciding the present application, it is observed that the Complainant, who is an eye-witness to the alleged



incident, has clearly identified the Applicant and deposed regarding his involvement in the commission of the alleged offence. *Prima facie*, the case of the Prosecution rests not only on this ocular evidence, but also on circumstantial evidence, including the CDR analysis of the Applicant's mobile phone. The CDRs indicate that the Applicant was in regular contact with the co-accused and was present at or near the place of occurrence at the relevant time. According to the case of the Prosecution, the Applicant restrained the deceased while the co-accused inflicted multiple fatal knife blows on his person, thereby attracting liability under Section 34 of the IPC. Given that the Applicant is alleged to have acted in furtherance of a common intention with the co-accused, the specific nature of his individual role becomes immaterial. In the opinion of this Court, such involvement is sufficient ground to deny bail to the Applicant in the present case.

7. Accordingly, in view of the totality of circumstances, including the gravity of the offence, the nature of the allegations, the eye-witness account, and the corroborative CDR evidence, this Court does not find any ground to grant regular bail to the Applicant.

8. It is clarified that any observations made in the present order are 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.

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

SANJEEV NARULA, J

JULY 29, 2025/ab