



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1300/2025, CRL.M.(BAIL) 2167/2025**
VIJAY

.....Petitioner
Through: Mr. Jitendra Sethi Senior Advocate
with Mr. Hemant Gulati Mr. Keshav
Sethi and Mr. Divyam Gaur,
Advocates.

versus
STATE, NCT OF DELHI

.....Respondent
Through: Mr. Shoaib Haider, APP for the State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
11.11.2025

%

1. Petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner/Applicant Vijay S/o Shri Raja in case FIR No.609/2023 under Section 302/201/120-B/34 IPC registered at Police Station Subhash Place.
2. It is submitted that the Bail Application preferred before the learned ASJ has been dismissed vide Order dated 18.03.2025.
3. **The case of the Prosecution** is based on the statement of one Nishant who stated that on 20.08.2023 a quarrel took place between Gaurav @ Kaku with 2-3 boys while they were dancing on the DJ at NSP Club, Khampur, Delhi, but on intervention, the matter got settled. Thereafter, Gaurav @ Kaku made a call to Vinay, his cousin brother and apprised him about the quarrel. At that time Ankit, who was also with Vinay, took the phone from



him and told Gaurav @ Kaku that they were coming to the Café Den's Don, NSP, Delhi.

4. It is further stated that after about one hour Sunny, called Gaurav @ Kaku and told him that they were standing in the Parking of the Club and they were also accompanied by two other persons namely Saavi and Ankit. Then they went towards the staircase of the Club, where Nishant and Vinay, the deceased were standing, who became angry with Vijay and his friend and started arguing with those boys. A quarrel ensued between them and out of those boys, someone stabbed on the thigh of Vinay and he fell unconscious.

5. As per the Prosecution case, accused Vinay and Ashish were called and then the quarrel was started by Gaurav and associates who arrived after about one hour of the incident which initially took place, but got settled. The other co-accused had also reached there. The Applicant had called them apprehending danger to the life at the hands of Gaurav @ Kaku who all had gathered near the Parking of the Club. It is stated that the quarrel was on a trivial matter which was perpetrated at the behest of Gaurav @ Kaku after an hour of first incident. Gaurav @ Kaku, Vinay (deceased) Sunny, Saavi and their associates had come prepared to take revenge from the Applicant and his friend Ashish.

6. Even as per the case of the Prosecution, it is shown that there was no intention on the part of the Applicant to cause death of any person including Vinay, but in a free-fight to save themselves from the clutches of Gaurav @ Kaku, an unfortunate incident happened resulting in the injuries resulting in death of Vinay.

7. It is submitted that the injury was caused on the thigh which is not a



vital part of the body which again establishes that there was no intention on the part of the Applicant or the co-accused persons to inflict any injury. No offence under Section 302 IPC is made out.

8. There is no allegation against the Applicant of having caused any exhortation or beating to the deceased, as the injuries are attributed to co-accused Aftab @ Ashraf Ali and Sadaab. There is not an iota of evidence that the Applicant otherwise was having any knowledge about the intended acts of the two co-accused Aftab and Sadaab or that they were armed with knife or any other weapon.

9. Reliance is placed on Panchaiah vs. State of Karnataka, wherein the Apex Court that there is only one injury inflicted, it can only show that there knowledge of which prima facie offence under Section 304 (II) read with Section 34 IPC is made out. Similar observations were made in Gurdip Singh & Ors. vs. State of Punjab (Supreme Court), Dalip Singh vs. State of Haryana (Supreme Court).

10. It is further submitted that deceased Vinay was found to be under the influence of liquor as has been revealed from the Viscera Report, which also assumes importance. The co-accused D. Arjun @ Devender Arjun had the similar role, has already been granted Bail.

11. Furthermore, no ground of arrest were given to the Applicant at the time of arrest. There is no non-compliance of Section 50 Cr.P.C, and therefore, the arrest/detention of the Applicant is illegal, being unconstitutional. The perusal of the Chargesheet and the accompanying documents reveal that the Applicant was not apprised of his grounds of arrest in writing by the I.O. Reliance is placed on Vihan Kumar vs. State of Haryana and Marfing Tamag @ Maaina Tamang vs. State of NCT of Delhi.



12. It is further stated that the investigations are complete and the Applicant is in custody for two years and three months and the trial has not progressed, because the result of FSL is awaited. A prayer is made that the Applicant be granted Bail.

13. A **Status Report** has been filed on behalf of the State, wherein the details of the entire incident have been given. It is further submitted that on the statement of the Complainant, Applicant along with other co-accused was arrested. He declined to participate in the TIP. Public witnesses are yet to be examined. Considering the gravity of offence and the stage of trial, Bail is opposed.

14. **Learned Senior Advocate for the Applicant** has argued that no case is made out under Section 302 IPC against the Applicant. Even as per the Prosecution injuries were caused by Aftab and Sadaab and Applicant was merely standing there along with his brother D. Arjun @ Devender Arjun. Furthermore, his role is same as that of the co-accused D.Arjun, who has already been granted Bail.

15. The Applicant is in Judicial Custody since 23.08.2023. There are 42 Prosecution witnesses, but till date only two Prosecution witnesses have been examined partially on account of non-availability of the FSL Report. Therefore, a prayer is made for grant of Bail.

16. **However, learned APP for the State has opposed** the Bail on the ground that the CCTV footage clearly shows the scuffle between the parties. It is clearly seen that Vijay had slapped Vinay. The Applicant Vijay had called his brother D.Arjun and other co-accused persons. There are five public witnesses, who are yet to be examined. Moreover, all the accused have been charged with Section 302 IPC as they all shared common



intention. The Bail is, therefore, opposed.

Submissions heard and record perused.

17. Pertinently, the Chargesheet has already been filed and no further custodial interrogation of the Applicant is required. The co-accused his brother D.Arjun who had a similar role, has already been granted Bail. Though, the Applicant is in Judicial Custody since 23.08.2023 and the Charges have already been framed, but the Prosecution evidence has been stalled on account of non-available of the FSL Report.

18. As per the Status Report, initially the fight took place between Gaurav @ Kaku, Ashish and Vijay which was resolved by the Complainant Nishant. However, after about an hour, a fresh scuffle took place resulting in death of deceased Vinay. Ashish and the applicant Vijay were seen standing at the staircase.

19. Considering the totality of circumstances, the accused is granted Regular Bail, on the following terms and conditions:

- a) The petitioner/accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The petitioner/accused shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the petitioner/accused changes their residential address,



the same shall be intimated to learned Trial Court and to the concerned I.O.

20. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

21. The above Bail Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 11, 2025/va