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

+ **BAIL APPLN. 1408/2025**

MOHD SHARIF @ MOHD SHARIF KHANPetitioner

Through: **Ms. M.R. Chanchal, Advocate.**

versus

THE STATE(GOVT., N.C.T OF DELHI)Respondent

Through: **Mr. Mukesh Kumar, APP for State
along with SI Ajit and Insp. Jeet
Singh, PS Hari Nagar.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **28.08.2025**

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 556/2020 dated 24th September, 2020, registered under Sections 302 and 34 of the Indian Penal Code, 1860³ at P.S. Hari Nagar, Delhi. After completion of investigation, a chargesheet was filed under Sections 302, 120B and 34 of IPC.

Factual Matrix

2. The case of the prosecution, in brief, is as follows

2.1. On 24th September, 2020, SI Vikas received information regarding the

¹ "BNSS"

² "CrPC"



alleged murder of an Under-Trial Prisoner⁴, Sikander @ Sunny Dogra, inside Jail No. 1, Tihar. Acting on the information, SI Vikas and his team proceeded to the office of the Deputy Superintendent of Jail No. 1. Upon arrival, they were informed by the authorities that the deceased had sustained multiple stab injuries. The attending doctor's report recorded that Sikander was brought dead at 1:45 PM on the same day, with visible stab wounds.

2.2. Intimation was thereafter given to the Duty Metropolitan Magistrate, and the Crime Team inspected the scene of the incident. During inspection, bloodstains were observed along the path leading from the RO Plant towards Ward No. 4, and a pool of blood was found at the RO Plant. A blood-stained towel/gamchha and a pair of black-and-red slippers were also recovered, which the Head Warden, Jai Prakash, later identified to be the belongings of the deceased.

2.3. In his detailed statement, the Head Warden disclosed that the Applicant, along with co-accused UTPs, Saddam, Shadab @ Dabdi, and Saffan Ali @ Aafan Ali, were involved in the stabbing of the deceased. He further disclosed that earlier that morning, at around 8:30 AM, an altercation had taken place between the deceased and two other UTPs, Rashid @ Noor Janhan and Sameer Sheikh @ Sonu, who are also charge-sheeted in the present FIR. Following that altercation, Rashid and Sameer were taken to DDU Hospital, and vigilance among jail staff was heightened. Later the same afternoon, around 1:15 PM, the Head Warden noticed four accused moving towards the deceased in the Chakkar area of the jail premises.

³ "IPC"

⁴ "UTP"



2.4. According to the Prosecution, Shadab and Saffan provoked the other accused by recalling the quarrel which occurred earlier that morning and openly made threats to eliminate Sikander. Acting on this incitement, four of the accused chased and fatally stabbed him. When the jail staff intervened, the assailants allegedly inflicted superficial injuries upon themselves, ostensibly to create an impression that they too had been attacked and thereby mislead the authorities. Subsequently, Shadab and Saffan were apprehended by the wardens, from whose possession blood-stained knives were recovered. The larger knife (seized from Shadab) and the smaller knife (seized from Saffan) were measured, photographed, sealed in plastic containers, and taken into police custody and subsequently, the FIR No.556/2020 was registered.

2.5. During investigation, UTPs Saddam, Shadab @ Dabdi, Saffan Ali @ Aafan Ali, and the present Applicant, who were formally arrested. During his interrogation, Shadab confessed the attack was carried out on instructions from Rashid and Sameer Sheikh, with whom he was aligned in a gang. He further stated that knives had been improvised and concealed in advance, and that on 24th September, 2020, he and Saffan stabbed the deceased while Saddam and the Applicant restrained him. The other co-accused Saddam, Saffan, and the Applicant provided corroborating statements. In response to a notice under Section 91 of CrPC, the jail authorities produced duty rosters, PMS records, punishment logs, and a CD containing CCTV footage of the jail dispensary. The footage depicts the deceased being brought on a stretcher in an injured condition, but it does not capture the actual scene of the incident.

2.6. Thereafter, Rashid @ Noor Janhan and Sameer Sheikh @ Sonu were



interrogated and arrested for their role in planning the alleged murder. During interrogation, they admitted that the assault was carried out to establish their supremacy in jail. The post-mortem report confirmed that the cause of death was haemorrhagic shock due to multiple stab injuries to both lungs, which were fresh, ante-mortem, and homicidal in nature.

2.7. The charge sheet stands filed before the Trial Court, and charges have been framed against Shadab, Saffan Ali, Saddam, and the present Applicant under Sections 302, 120B, and 34 IPC, while Rashid and Sameer Sheikh are charged under Sections 302, 109, and 120B IPC.

Contentions of the Applicant

3. 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 been in judicial custody since 29th September, 2020. The investigation is complete, the charge sheet has been filed, and charges have already been framed; the Applicant's further incarceration is neither required nor necessary for the purpose of investigation and would only be tantamount to pre-trial punishment.

3.2. The trial is progressing at a slow pace. Out of the 36 witnesses cited by the prosecution, only 4 have been examined till date. In these circumstances, it is not possible to reasonably estimate the time frame for conclusion of the trial. The Applicant submits that his continued detention amounts to violation of his fundamental right to speedy trial under Article 21 of the Constitution.

3.3. The co-accused Rashid @ Noor Janhan and Sameer Sheikh @ Sonu, who are alleged to be conspirators and whose roles are also reflected in the



charge sheet, have already been granted bail *vide* orders dated 4th March, 2024 and 22nd March, 2024, respectively. Therefore, on the principle of parity, the Applicant deserves to be enlarged on bail.

3.4. Reliance is placed on the judgment of the Supreme Court in ***Dr. Vinod Bhandari v. State of M.P.***⁵, wherein it was held that in bail proceedings at the pre-conviction stage, there exists a presumption of innocence, and the object of custody is limited to securing the presence of the accused at trial and ensuring that the sentence, if any, can be enforced. Such custody is not meant to be punitive or preventive in nature.

3.5. The Applicant has no prior convictions. He poses no flight risk and there is no possibility of tampering with evidence or influencing witnesses, particularly since the majority of the witnesses in the present case are police officials.

Contentions of the State

4. On the other hand, Mr. Mukesh Kumar, APP for the State, opposes the present bail application and makes the following submissions:

4.1. The allegations against the Applicant pertain to the murder of a fellow under-trial prisoner within the precincts of a jail, where the Applicant himself was in judicial custody. The offence is, therefore, of a grave and heinous nature, reflecting a deliberate act executed in furtherance of a conspiracy. Considering the gravity of circumstances, prolonged incarceration cannot, by itself, constitute a ground for enlargement on bail.

4.2. The Applicant is not a first-time offender but a habitual criminal, having previously been implicated in several other cases, including those under the Indian Penal Code (such as robbery etc.) and the Arms Act. In the



present case, his role cannot be characterised as peripheral; the prosecution specifically attributes to him the act of restraining the deceased, thereby enabling his co-accused to inflict the fatal injuries. Having regard to his antecedents and the seriousness of the allegations, it is contended that there exists a real and credible apprehension that, if released on bail, the Applicant may attempt to influence or intimidate witnesses, thereby impeding the fair conduct of the trial.

Analysis

5. It is a well settled principle in law that while considering an application of bail, the Court must keep in mind several factors relating to the case, such as – whether there is any *prima facie* reasonable ground to believe that the accused has committed the offence, the nature and gravity of the accusation, the severity of the potential punishment, the risk of the accused absconding or fleeing if released on bail, the likelihood of the offence being repeated, etc.⁶

6. Indeed, the allegations against the Applicant are of a grave and serious nature, which indicate a premeditated act of murder, committed within the confines of a jail, where the Applicant was himself lodged as an under-trial prisoner. The material collected during investigation, including the contemporaneous statement of the Head Warden, recoveries of blood-stained weapons from the co-accused, and supporting circumstantial evidence, *prima facie* point towards the Applicant's active participation in the commission of the alleged offence.

7. The fact that investigation is complete and charges have been framed

⁵ CrI. Appl. No. 220/2015.

⁶ **Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.** (2010) 14 SCC 496



does not *ipso facto* entitle the Applicant to bail. In matters involving grave and heinous offences, if the material on record discloses *prima facie* involvement, bail cannot be granted merely for the asking. The Court is required to balance the liberty of the accused against the collective interest of society and the integrity of the trial process. The Supreme Court in ***Kalyan Chandra Sarkar v. Rajesh Ranjan***⁷ underscored the need for a judicious exercise of discretion in bail matters and held that while a detailed evaluation of evidence is not warranted at this stage, orders granting bail must disclose reasons indicating why such relief is justified, particularly in cases of serious offences. An order lacking such reasoning would be vitiated for non-application of mind. The relevant extract of the decision is as under:

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from nonapplication of mind...”

[emphasis supplied]

8. Similarly, in ***Brij Nandan Jaiswal v. Munna***⁸, the Supreme Court cautioned that bail, especially in cases of murder, cannot be granted in a mechanical manner. The Court reiterated that some reasons justifying the grant are indispensable. Thus, in the present case, where the allegations disclose a proximate and specific role attributed to the Applicant – namely, that of restraining the deceased during the fatal assault – the plea of false

⁷ (2004) 7 SCC 528.

⁸ (2009) 1 SCC 678.



implication is untenable at this stage. The contention that only four out of thirty-six witnesses have been examined is also of limited weight. While delay in trial is a relevant consideration under Article 21 of the Constitution, delay by itself cannot justify release where the charges are of exceptional gravity.

9. As regards the reliance placed on the principles of presumption of innocence and the limited object of custody at the pre-trial stage, there can indeed be no quarrel with these settled propositions. However, it must equally be borne in mind that bail is not to be granted as a matter of course; it is a discretionary relief that calls for a judicious balancing of competing considerations. The presumption of innocence, though fundamental, cannot overshadow other relevant factors, such as the gravity of the charge, the specific role attributed to the accused, his antecedents, and the potential impact of release on the fairness of the trial. The Supreme Court in the recent case of ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***⁹, observed as follows:

“11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:

11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.

11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.

⁹ 2023 INSC 761.



11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.

11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail.”

[Emphasis Supplied]

10. The reliance on parity with co-accused Rashid @ Noor Janhan and Sameer Sheikh @ Sonu is also misplaced. It is trite that the principle of parity cannot be applied mechanically where the nature and degree of participation differ materially. Those co-accused are alleged conspirators, whose role was confined to instigation and planning. In contrast, the Applicant is attributed direct physical involvement during the incident, specifically restraining the deceased, while fatal blows were inflicted.

11. The submission that the Applicant has no prior conviction and poses no flight risk is equally unpersuasive. The State has produced a Previous Conviction/Involvement Report reflecting that the Applicant is a habitual offender involved in several other cases under the IPC and the Arms Act. Even in the absence of a conviction, antecedents remain a relevant factor in bail jurisprudence. Moreover, the Nominal Roll as on 21st May, 2025, records the Applicant's overall jail conduct as unsatisfactory, with repeated incidents of misbehaviour with prison staff. This lends further weight to the apprehension that his release may prejudice the fair conduct of the trial.

12. Having regard to the overall facts and circumstances of the case, the Court finds no merits in the present application. The application is accordingly dismissed along with any pending application(s).



13. 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.

SANJEEV NARULA, J

AUGUST 28, 2025/MK