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

+ **BAIL APPLN. 1430/2025**

SURAJ ALIAS RIKKY

.....Petitioner

Through: Mr.Harsh Vardhan Sharma, Advocate
(VC)

versus

STATE THROUGH SHO PS ANAND PARBATRespondent

Through: Mr.Sanjeev Sabharwal, APP for the
State

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **19.09.2025**

1. Having remained under incarceration since 19.06.2022 (more than 3 years and 3 months) in a criminal case arising out of FIR No. 0225/2022 dated 15.04.2022 for the alleged offences punishable under Sections 302, 308, 342 and 34 of IPC, registered at Police Station Anand Parbat, the applicant seeks bail. Subsequently, a chargesheet was filed against the accused/ applicant for the alleged offences under Sections 302, 208, 342, 34, 143, 147, 148, 149, 364, 365 and 201 of the IPC.

2. Per FIR, the complainant/ victim (Manoj @ Pappu) were friends with Ritik (deceased victim), and they would regularly meet. The complainant already knew co-accused/ Vikky @ Pange, who 4-5 days prior to the incident, had asked complainant to get cigarettes, however, on receiving a different brand, an altercation ensued in which abuses were exchanged, following which Vikky bore animosity.



2.1 On 14.04.2022, the complainant was confronted by co-accused/ Vikky along with Child in Conflict with Law (CCL)-Arjun and co-accused persons-Shivkant, Sonu @ Mooli, and another boy, unknown but identifiable. At that stage, Vikky exhorted his associates to teach complainant a lesson, whereupon the complainant and Ritik (complainant's friend/ deceased victim) were apprehended, taken to co-accused/ Vikky's nearby house, confined in a room, and assaulted with iron rods. In the course of the beating, deceased victim became unconscious, after which CCL-Arjun and co-accused/ Shivkant took him away, while the complainant, on coming out of the house, fell in the street, where his friend Jaspreet @ Mola met him and carried him home.

2.2 Thereafter, complainant's neighbour informed the PCR, which took him to the hospital for treatment. Subsequently, the police identified the place of assault as T-20/C, Azad Chowk, Baljeet Nagar, and it was revealed that deceased victim had been taken from the site of incident by co-accused-Shivkant and CCL Arjun.

2.3 Upon receipt of DD No. 78A, the police reached Sardar Patel Hospital, where Ritik was found to be already deceased. Thereafter, the complainant was medically examined, and his statement was recorded, on the basis of which the present FIR was registered.

2.4 During the course of investigation, based on CCTV footage and a secret information, it was discovered that co-accused Vikky, Shivkant, and CCL Arjun were involved. They disclosed that all six accused, including the applicant/ Suraj Alias Rikky, participated in beating the complainant and the deceased victim. It was further revealed that the premises where the incident occurred was a rented property in the name of the applicant.



3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Earlier bail application of the applicant was dismissed by the learned Sessions Judge vide an order dated 02.04.2025.

5. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

5.1 That the learned ASJ *vide* order dated 02.04.2025 has failed to appreciate the fact that the allegations made against the applicant are false, frivolous and vexatious and lack material substance. Despite the chargesheet having been filed in 2022, charges were framed by the Trial Court only on 22.07.2023, nearly after a year, against the applicant and other co-accused persons under Sections 302, 308, 342, 143, 147, 148, 149, 364, 365, 34 IPC.

5.2 That the learned ASJ has failed to appreciate that till date only five prosecution witnesses, including the complainant, have testified before the Trial Court out of the total 39 cited witnesses. He would contend that the applicant has been in judicial custody since 19.06.2022, the trial has already commenced, and the material public witnesses have deposed before the Court. PW-5/ complainant Manoj @ Pappu, presently lodged in Tihar Jail No.8, was brought on production warrant on 06.01.2025, and his examination-in-chief was conducted.

5.3 That the learned ASJ has failed to appreciate that the prosecution case rests solely on the testimony of one witness, Manoj @ Pappu (complainant), who himself is in custody at Tihar Jail, thereby ruling out any possibility of tampering. He would contend that the alleged incident is stated to have occurred in a busy colony buzzing with people, yet no independent public witness has been examined. The police made no effort to verify the facts or



involve any public witnesses despite the alleged place of occurrence being a highly populated area.

5.4 That the complainant initially did not name the petitioner in the FIR, his name surfaced only during the statement under Section 164 CrPC before the Magistrate. He would argue that the alleged rods and dandas used in the murder were allegedly recovered from a locked premises, raising a strong possibility of planting. No fingerprints of the petitioner were ever found on those articles, nor has any FSL report been filed in this regard. No bloodstains matching the deceased were found. The alleged recovery was conducted without joining public witnesses, which itself makes it doubtful. The alleged offence, said to have taken place in daytime in a busy locality, strangely found no corroboration from any public person.

5.5 That the learned ASJ has failed to appreciate that the police failed to join public persons at the time of arrest, recording disclosure statements or recovery, despite claiming that crowds had gathered. Such lapses cast doubt on the fairness of the investigation. He would place reliance on the Supreme Court judgment in ***State of Kerala v. Raneer (Crl. Appeal No. 3/2011)*** wherein it was held that delay in trial is an important factor while deciding bail, as denial of bail followed by eventual acquittal results in irreparable loss of years of life in violation of Article 21. He would also rely upon ***Pradeep Narayana v. State of Maharashtra AIR 1995 SC 1930***, wherein the Supreme Court observed that failure to join independent witnesses creates doubt about fairness of investigation, benefit of which must go to the accused.

5.6 That the learned ASJ has failed to appreciate that the evidence is entirely circumstantial with no complete chain pointing towards the



petitioner. That the prosecution has failed to prove any conspiracy or cogent evidence against him. He would rely upon the Supreme Court judgment in ***Dinesh Kumar v. State of Haryana (Criminal Appeal No.530/2022, decided 04.05.2023)*** whereby it was held that in absence of direct evidence, the prosecution must build a complete chain of circumstances. Likewise, in ***Laxman Prasad v. State of Maharashtra (Criminal Appeal No.821/2012, decided 14.06.2023)***, the Court reiterated that the chain of circumstances must be complete to exclude any other theory.

5.7 That the learned ASJ has failed to appreciate that the applicant has already been in detention for more than four years. He would urge that applicant poses no flight risk, and his continued custody serves no fruitful purpose, while his family, including wife and two minor children, suffers irreparable loss. He would urge that the investigation is complete, chargesheet filed, and custody is no longer required. The complainant has already testified, and being himself lodged in Tihar Jail, there is no question of tampering.

5.8 That the learned ASJ has failed to appreciate that although two other Excise Act cases were pending against the petitioner, in one he has been acquitted, and in the other he is on bail. That applicant's family has shifted to a new location, eliminating the risk of contact with prosecution witnesses. No complaint of threat has ever been made by any witness. That the principle is 'bail not jail' till guilt is proved, and pre-trial detention violates Article 21.

6. Opposing the above submissions, the learned APP for the State argues that the same is *sans* merit and the applicant is not entitled to any relief at this stage, as there remains a genuine risk of him absconding, influencing or



intimidating witnesses, and tampering with crucial evidence. He would contend that the applicant, along with his associates, assaulted the deceased complainant/ Ritik and the complainant/ Manoj by iron rods, kicks and punches. He would further contend that the alleged property where the incident occurred was in the possession of the applicant on rent.

6.1 He would argue that the applicant absconded during investigation, compelling initiation of proceedings under Section 82 Cr.P.C., and was later arrested on the basis of a secret information. He would further submit that the applicant is also involved in two other cases under the Excise Act, registered *vide* FIR Nos. 343/2021 and 337/2021 at P.S. Anand Parbat.

7. Having heard, I am of the view that there may be some substance in certain arguments addressed on merits by the learned counsel for the applicant but the same are matter of trial, but at this stage, in light thereof, it is otherwise a case for bail for the reasons stated here in after.

8. I have also perused the statement of PW-5/ complainant, i.e., the eye-witness Manoj @ Pappu. No doubt, in his examination-in-chief, he clearly mentioned the names of the accused in line with what he had earlier stated under Section 161 Cr.P.C. before the Investigating Officer. However, when subjected to cross-examination, his testimony stood impeached. He categorically admitted that he had not disclosed the names of the assailants to the doctor, as he was unaware of who had assaulted him, and that, at the time of the occurrence, he had been beaten by the general public. He also admitted that he did not even know the duty constable who was present at the hospital. Thus, the stand taken by him during cross-examination is reflective that the possibility of his statement made in Court during examination-in-chief being tainted cannot be ruled out.



9. Further, the prosecution places reliance merely on the statement of the house owner of the property where the alleged incident occurred, stating that the premises were on rent with the applicant, as well as on the disclosure statements of the co-accused persons, on the basis of which the applicant was apprehended on 19.06.2022. No other credible proof of any incriminating material *qua* the applicant has been unearthed.

10. The alleged recovery of rods and dandas from a locked premises, without fingerprints, bloodstains, or FSL report, is suggestive of weakness in investigation. No public witnesses were joined despite the recovery and arrest allegedly taking place in a busy locality. The case rests on circumstantial evidence with neither complete chain linking the petitioner to the offence, nor proof of conspiracy.

11. Be that as it may, all this is matter of trial. Suffice, at this stage, that in view of aforesaid, a doubt is casted on the prosecution version *qua* the applicant.

12. Given that the applicant has already remained in custody since 19.06.2022, for approximately 3 years and 3 months, and the investigation *qua* him is complete with the charge sheet filed, he is no longer required for any custodial interrogation. The trial is moving at a snail's pace and further continued incarceration would cause undue hardship to the applicant's family and serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

13. As regards the apprehension of tampering with evidence, there is nothing on record to suggest that he would interfere with evidence, or influence witnesses. There is also no likelihood of the applicant absconding,



given that he is a well-settled individual, has deep roots in society, and is the primary caregiver of his wife and two minor children, who are dependent on him for their well-being, and hence not a flight risk.

14. Considering that the primary purpose of bail is to secure the presence of the accused during trial, coupled with the fact that the applicant poses no risk of absconding, his continued detention at this stage would serve no purpose other than to punish him prior to the conviction. Further, as per the nominal roll, the applicant has been granted concession of bail in other FIRs bearing nos. 519/2020 and 343/2021 and given his overall satisfactory conduct in the jail, I am of the view that the applicant is entitled to bail.

15. As an upshot and taking a wholesome view of the matter, the applicant is thus directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

16. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

17. Accordingly, the bail application, along with pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 19, 2025/dy