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

+ **BAIL APPLN. 1764/2023**

SATISH @ KUBDA @ AJAY

.....Petitioner

Through: Mr. Kapil Chaudary, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Mr. Rahul Rathi, SI, PS-Sangam
Vihar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **21.04.2025**

1. The present petition filed under Section 439 of Code of Criminal Procedure, 1973¹ seeks regular bail in FIR No. 205/2015 registered under Sections 302, 364 and 34 of the Indian Penal Code, 1860² as well as Sections 25 and 27 of the Arms Act, 1959 at P.S. Sangam Vihar, New Delhi. Subsequently, Sections 365 and 120-B of the IPC have been added in the chargesheet.

2. Briefly, the case of the prosecution is as follows:

2.1. The case involves the alleged murder of two boys, Sumit and Akash. On 6th April, 2015, information was received at P.S. Sangam Vihar *vide* DD No. 03A from Majidia Hospital regarding an MLC involving one Sumit, who had sustained grievous head injuries and was declared 'brought dead'.

¹ "Cr.P.C.".

² "IPC".



2.2. Pursuant to this, SI Amit Kumar proceeded to the address noted in the MLC [DDA Flats, Tigri, Delhi] where a crowd had gathered. Upon inspection, the police found a pool of blood, four empty cartridges, and three abandoned motorcycles (a Bullet, a Suzuki Gixxer, and a Hero Splendor). There, SI Amit Kumar met the complainant, Vishal @ Cheeku, who narrated that on 5th April, 2015, at around 10:00 PM, he had gone to Tigri Road near Balmiki Mandir to eat with his friends Sumit and Akash @ Akku. The Complainant was sitting on a bike outside the shop 'Alam Biryani', while Sumit and Akku went to get biryani and cigarettes. As they sat on the bike, around 8 boys emerged from nearby shanties, some on foot and others on motorcycles, carrying sticks, with one holding a pistol. Among the said group of boys, the Complainant identified Ravi @ Rabiya, Sunil @ Sapola, Ajay @ Chhotu, and Rocky. One of the boys hit Akash on the head with a stick, causing him to panic and flee the scene. The boys chased and caught him, while others attacked Sumit with sticks. The Complainant fled but heard a gunshot and saw Sumit lying on the ground, with Ravi @ Rabiya standing over him holding a pistol. The attackers then put Akash on a motorcycle and fled.

2.3. Based on this complaint, FIR No. 205/2015 was registered under the relevant provisions. The crime scene was sealed, examined by the Crime Team, and evidence such as the motorcycles and spent cartridges was seized. A site plan was also prepared at the Complainant's instance.

2.4. On the same date, at approximately 6:40 AM another intimation was received at P.S. Sangam Vihar, *vide* DD No. 10B reporting a dead body found behind Sarvodaya Vidyalaya, J-Block, Sangam Vihar. The police recovered the body, later identified as Akash @ Akku, which bore visible



head injuries. Two empty cartridges and a red handkerchief were also recovered at the site. The body was sent for autopsy at AIIMS, New Delhi. The Crime Team was called to photograph the scene, and the evidence was seized by the IO. Both victims' bodies were then shifted to the Mortuary at AIIMS, New Delhi.

2.5. On 7th April, 2015, post-mortem examinations were conducted on the bodies of both victims, and the exhibits preserved by the autopsy surgeon were seized by the IO. During the course of further investigation, based on the information from a secret informer, two co-accused, Ravi Gupta @ Rabiya, and Sunil @ Sapola were apprehended. During interrogation, they admitted their role in the double murders of Akash @ Akku and Sumit, alongside their associates: 'S', Akash @ Machine @ Rocky, Arjun @ Tillu, and the Petitioner. A country-made semi-automatic pistol, the weapon used in the offence, was recovered from Ravi Gupta @ Rabiya.

2.6. On 8th April, 2015, co-accused 'S' was traced and apprehended under Juvenile Justice Act, 2015. He was produced before the Juvenile Justice Board and remanded to an Observation Home. On the same day, an auto driver, Neeraj, brought his autorickshaw to P.S. Sangam Vihar and reported that the accused persons had forced him at gunpoint to transport Akash @ Akku. Accordingly, the autorickshaw was seized as material evidence. Later, Ravi @ Rabiya and Sunil @ Sapola were remanded to Police Custody.

2.7. On 9th April, 2015, Akash @ Machine @ Rocky and Arjun @ Tillu were arrested.

2.8. Upon sustained interrogation, Arjun led the police to his residence, from where a wooden *danda* allegedly used in the crime was recovered.



2.9. On 17th April, 2015, the Petitioner was arrested. On 29th April, 2015, TIP proceedings were initiated in respect of the Petitioner, who declined to participate. The post-mortem reports for the victims, Akash @ Akku and Sumit, confirmed the cause of death as “*coma due to craniocerebral injury caused by firearm wound/injury.*”

2.10. During further investigation, various exhibits seized were deposited at FSL for examination. Meanwhile, on 11th May, 2015, co-accused Ajay @ Chhotu was killed in Tihar Jail in an assault by fellow inmates. On 18th May, 2015, TIP proceedings were conducted for the juvenile ‘S’, during which he was identified by key eyewitnesses, Vishal @ Cheeku and Meeraj.

2.11. Upon conclusion of the investigation, the charge-sheet was filed before the Trial Court on 6th July, 2015. The case is presently at the stage of Prosecution Evidence. A supplementary chargesheet has since been filed, enclosing the FSL report, which indicates that blood stains found on the Petitioner’s shirt and jeans match the alleles from the blood sample of the deceased Sumit.

3. Counsel for the Petitioner raises the following grounds for seeking bail:

3.1. The Petitioner has been falsely implicated by the prosecution. PW-15, the complainant and key prosecution witness, has significantly diluted the prosecution’s case in his deposition before the Court. He categorically stated that his earlier statement dated 24th August, 2017, was given under police pressure and at their instance. He further deposed that the police obtained his signatures on blank papers and that he had no knowledge of what was subsequently written on them. He also clarified that he was not an



eyewitness to the murder and that the names he had provided were those dictated to him by the police.

3.2. PW-15's testimony reveals that, after the arrest of each accused, the police showed him their photographs and furnished their names and details, and that this information he received from the police and not through any independent knowledge or observation.

3.3. Reliance is placed on the statement of PW-35, ACP (Retd.), who, during cross-examination, conceded that aside from the disclosure statements and the alleged recovery of blood-stained clothes, no other independent evidence corroborates the recovery of the said clothes. It is emphasised that PW-35 admitted to the absence of any incriminating evidence linking the Petitioner to the place of occurrence.

3.4. The Petitioner was previously granted interim bail and has fully complied with all conditions imposed upon him. He has never misused the liberty so granted, nor attempted to tamper with evidence or influence witnesses. He therefore poses no flight risk.

3.5. All material prosecution witnesses, whose testimony was relevant to the Petitioner, have already been examined. In these circumstances, continued incarceration of the Petitioner would serve no legitimate purpose.

3.6. The Petitioner has been in custody since 17th April, 2015. Despite the passage of over nine years, the trial is nowhere near conclusion. General directions issued by courts to expedite trials cannot be used as a ground to deny bail, particularly when the accused has remained in prolonged incarceration. In support of this proposition, reliance is placed on the judgment of the Supreme Court in ***Rup Bahadur Magar @ Sanki @ Rabin***



*vs. State of West Bengal*³, wherein the Supreme Court had observed that the directions given by the High Court for directing disposal of trial within a fixed timeline are contrary to law laid down by the Constitutional Bench in the case of *Allahabad High Court Bar Assn. v. State of U.P.*⁴ and such orders put undue pressure on the Trial Court which are already overburdened.

3.7. Reliance is also placed on the fact that co-accused Sunil @ Sapola, and Nitin Gupta, the co-accused, have been granted bail.

4. Mr. Mukesh Kumar, APP for the State, opposes the bail application. He submits that the trial is now at an advanced stage, with all material witnesses having been examined. Only formal witnesses, pertaining largely to the supplementary charge-sheet, remain to be recorded. It is further urged that, apart from the disclosure statements of the accused, there is scientific evidence on record, sufficient to establish the Petitioner's complicity in the crime. Mr. Kumar emphasises that in cases involving heinous offences, particularly those punishable with life imprisonment or death, the period of incarceration, however lengthy, must be weighed with caution. He highlights that the present case involves a double murder and asserts that there exists a strong likelihood of the Petitioner absconding if released on bail. On these grounds, it is submitted that no case for grant of bail is made out.

5. The Court has carefully considered the aforementioned contentions. It is well-settled that, at the stage of considering bail, the Court is not expected to conduct a detailed analysis of the evidence or assess the veracity of witness

³ 2024 SCC OnLine SC 4699.

⁴ (2024) 6 SCC 267.



testimonies. Any inconsistencies or contradictions pointed out in the depositions of PW-15 and PW-35 are matters for appreciation, by the Trial Court, at the final stage of adjudication. This Court consciously refrains from making any observations that might prejudice the outcome of the trial.

6. However, what weighs with the Court is that the trial has reached an advanced stage. The examination of all material witnesses has been concluded, and only formal witnesses remain to be examined. The prosecution's case is not founded merely on the disclosure statements, but is also supported by scientific evidence, including the recovery of blood-stained clothes bearing alleles matching the DNA profile of the deceased. Further, the recovery of the weapon of offence lends additional support to the prosecution's case. In such circumstances and bearing in mind the serious nature of the offence involving double homicide, the possibility of the Petitioner fleeing from justice cannot be discounted.

7. Therefore, having regard to the nature and gravity of the offence, the stage of the trial, and the apprehension of the Petitioner absconding if released on bail, this Court is not inclined to grant bail, at this stage.

8. Dismissed.

SANJEEV NARULA, J

APRIL 21, 2025

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