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

+ **BAIL APPLN. 1513/2025**

AKIL

.....Petitioner

Through: Mohd. Asif, Mohd. Warish Azim and
Mr. Ali Akib, Advocates

versus

STATE OF NCT DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State
Ms. Pallavi Vashist, Advocate for
Victim

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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25.08.2025

1. Bail Application under Section 439 read with Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed for grant of Regular Bail in the FIR No. 0427/2022 registered under Sections 307/397/302/34 IPC read with Sections 25/27 of the Arms Act at P.S. Narela.
2. The facts are that on 18.08.2022, FIR No. 0427/2022 was recorded on the information from the IO that a biker has fallen and is injured. Investigations were carried out and the injured Gurmeet Singh was taken to SRHC Hospital where during his treatment, he expired. Investigations were conducted and the Chargesheet has been filed.
3. ***The bail is sought on the ground that*** he was never informed about the grounds of arrest, which is in violation of Article 22(1) of Constitution of India, Section 41(b)(i) and Section 50 Cr.P.C. He has been arrested from his house and his arrest has been shown from the red light while fleeing



towards Bhopra Border.

4. The Chargesheet has already been filed in the Court and there is no necessity of further detention of the Applicant as has been observed by the Apex Court in the case of Sanjay Chandra vs. CBI AIR 2012 SC 830.

5. There is nothing incriminating recovered from the possession of the Applicant; neither the weapon nor the stolen money or any document of bank was found, as has been alleged against the Applicant.

6. He belongs to the lowest strata of society and has three daughters elderly mother to take care. The mother who is working as a domestic help, has lost her vision partially and is unable to make the ends meet. The children of the Applicant are at the verge of starvation. Their situation has further deteriorated whereas the wife of the Applicant has been forced into prostitution as the only means of sustenance of their family.

7. There is a principle of presumption of innocence against the Accused who cannot be subjected to incarceration till the decision in the present case.

8. It is further submitted that if any offence is made out against the Applicant, it is of having omitted to give information of the crime to the Police for which Section 202 IPC is invited, which is bailable, non-cognizable and punishable with a maximum sentence of 06 months. The Applicant is languishing in jail for more than two and a half years of from a crime, which has not been committed by him.

9. The trial has just commenced and only 01 out of 40 Prosecution witnesses has been examined. The trial is likely to take long to conclude. The reliance has been placed on Manish Sisodia vs. Directorate of Enforcement 2024 wherein it has been held that detention in jail before being pronounced guilty for an offence, should not become punishment



without trial. The Applicant is not in a position to intimidate any of the witnesses nor does he pose any flight risk, thwarting the justice or tampering with the witnesses. There is no further need of his being kept in custody. His conduct has been exemplary and he has never violated or breached any of the instructions passed by the Jail Superintendent.

10. The Prosecution is relying upon the disclosure statement of the Accused, statement of the witnesses, documents and objects that cannot be attributed to him in any manner on *prima facie* basis and no ingredients of the offence are made out against him.

11. Reliance has been placed on National Investigation Agency vs. Zahoor Ahmed Shah Watali, 2019 wherein it has been held that there must be evidence/materials, which would be good and sufficient to establish a given fact or chain of fact constituting the alleged offence. The disclosure statement cannot be used to implicate the Applicant. The alleged calls details do not belong to the Accused. Further reliance is placed on Union of India vs. K.A. Najeeb, AIR 2011 SC 712 wherein High Court of Kerala considered the length of time that the Accused has already spent in jail and the likelihood of the trial taking still more time to conclude and granted bail to the Accused.

12. In Nagendra vs. King-Emperor AIR 1924 Cal 476, High Court of Calcutta held that the object of bail is to secure the attendance of the Accused at the trial and that the proper test to be applied in the solution of the question whether Bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that Bail is not to be withheld as punishment.

13. Similarly, in Emperor vs. Hutchinson, AIR 1931 ALL 356, it was



held that an Accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person, he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

14. In Lalu Prasad vs. State of Bihar & Anr., the Apex Court considered the seriousness of the charges and the period of 06 months in jail and further detention was unwarranted. In Gurbaksh Singh Sibbia vs. State of Punjab 1980, it was noted that a word of caution may perhaps be necessary in the evaluation of the consideration whether the Applicant is likely to abscond. In another judgment in Gudikanti (1978) 1 SCC 240, it was held that it was the duty of Magistrates to admit Accused persons to Bail wherever practicable unless there were strong grounds for supposing that such persons would not appear to take their trial. It was not the poorer classes who did not appear, for their circumstances were such as to tie them to the place where they carried on their work.

15. In the case of State of Kerala vs. Raneef (2011) 1 SCC 784, the Apex Court observed that in deciding Bail Applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. In Gurcharan Singh vs. State (Delhi Admn) (1978) 1 SCC 118: it was held that the Court may repeat the two paramount considerations, viz. likelihood of the Accused fleeing from justice and his tampering with Prosecution evidence relate to ensuring a fair trial of the case. In Satender Kumar Antil vs. Central Bureau of Investigation & Ors., AIR 2022 SC 3386, two years has been considered a reasonable period. In



the case of Javed Gulam Nabi Shaikh vs. State of Maharashtra, the Court observed that if the State or any prosecuting agency including the Court concerned has no wherewithal to provide or protect the Fundamental Right of an Accused to have a speedy trial as enshrined under Article 21 of Constitution of India then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious.

16. In Babu Singh vs. State of U.P (1978) 1 SCC 579, the Court opined in that personal liberty, deprived when Bail is refused, is too precious a value of our Constitutional system recognized under Article 21. In the case of Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh 2024 SCC OnLine SC 1755, the Apex Court time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the Accused-undertrial under Article 21 of the Constitution of India has been infringed.

17. In the case of Moti Ram vs. State of M.P. (1978) 4 SCC 47 while discussing pre-detention, held that the consequences of pre-trial detention are grave. The Apex Court has also discussed the repercussion in State of Kerala vs. Raneef, AIR 2011 SC 340, that the Court is anxious over the fact that jails debilitate the under-trial prisoners and if after the long wait, the Accused is ultimately acquitted, then how would the long years spent by the under-trial in custody be restored to him/her/them. The fact that the imprisonment of a family member affects the whole family cannot be



overlooked and if long incarceration pending trial is considered to be harsh on the Accused, then it should also be considered to be equally harsh on the family members of the Accused. The rule is that pre-conviction detention is not warranted by law.

18. In the case of Jalaluddin Khan vs. Union of India 2024 SCC OnLine SC 1945, the Apex Court as well as various High Courts time and again emphasized the principle that “Bail is a rule and jail is an exception”.

19. It is, therefore, submitted that he be admitted to Bail.

20. ***The Status Report has been*** filed on behalf of the State wherein the details of the investigation conducted in the FIR and filing of Chargesheet has been filed. It is submitted that during the course of investigation, victim’s employer, Gurjeet Singh had informed the Police that he was carrying Rs.10 lacs in his bag at the time of incident, which has been robbed by the assailants.

21. The Postmortem Report dated 19.08.2022 opines that the bullet had hit the victim’s skull.

22. The CCTV footage from the vicinity of the crime shows the suspect running away with a bag after the incident. Another CCTV has captured a white Apache Motorcycle being driven at a high speed near the scene of crime. Further footage shows two individuals, one on foot and the other on the motorcycle, leaving together with the bag.

23. The suspects were traced through Budhpur, Ibrahimpur, Burari, Jagatpur, Wazirabad, Sonia Vihar and finally to Karawal Nagar, Delhi. On 30.08.2022, on the basis of secret information, ***Applicant Akil*** was arrested from his residence in Nand Nagri, Delhi. During the interrogation, he confessed to the commission of offence and disclosed that he had committed



the offence alongwith the co-accused **Aarish @ Mulla**. He also revealed that he could assist in recovery of Motorcycle and robbed cash. He was taken into Police custody for four days. During the Police remand, recovery of Motorcycle was made. Rs.3.75 lacs cash in the robbed bag and the factory documents belonging to the deceased, were recovered from Akil's sister Rubl, who was subsequently arrested on 02.09.2022. Shoes worn by Akil, were also recovered at the instance of the Applicant.

24. On 17.09.2022, co-accused Aarish was apprehended. During interrogation, he admitted the involvement in the offence and disclosed the location of the weapon, which was recovered aside from Rs.2.56 lacs cash and two firearms, which were used in commission of the offence alongwith live cartridges.

25. There is a clear chain of events implicating the Applicant based on CCTV footage, eyewitness accounts, recoveries and disclosure statements. The Applicant had planned and executed the robbery in a premeditated manner, using illegal firearms and caused the death of Gurmeet Singh. Chargesheet has already been filed and the case is pending trial.

26. The Applicant had filed Bail Application multiple times before the learned Trial Court, but has been dismissed every time.

Submission heard and record perused.

27. It has been pointed out that this is a case which is based on circumstantial evidence which is as under :

- (i) the Statement of the Company owner to identify the assailant in CCTV, but he submitted that he was unable to identify the assailants;
- (ii) the pointing out of the place of recovery of motorcycle;



- (iii) recovery of cash of Rs.3.75 lakhs and bag from the sister of the Applicant; and
- (iv) recovery of the gun from the co-accused.

28. As has been submitted, the statement of the two material witnesses has also been recorded. There are 43 Prosecution witnesses in all, who are yet to be examined. The alleged incident had happened on 17.08.2022, while the Applicant was apprehended in a Kalandra under Section 14.1(a) on 29.08.2022.

29. There has been much argument about the recovery of the motorcycle at the instance of the Applicant, but it has been clarified by the learned Additional Public Prosecutor that the motorcycle had been recovered from outside the house of the owner on 19.07.2022 in respect of which he had lodged a Complaint of theft on 14.07.2022. The recovery in fact was not at the instance of the Applicant, but he had pointed out the place from where the motorcycle had already been recovered. It is submitted by learned Counsel for the Applicant that this pointing out cannot be termed to be in pursuance to the Disclosure Statement of the Applicant.

30. The recovery of cash of Rs.3.75 lakhs is also from a bag recovered from the sister of the Applicant. It has been submitted that the bag which has been exhibited during the evidence has been noted to be not the same as was visible in the CCTV, by the learned Trial Court.

31. The Applicant is in Judicial Custody since 29.08.2022 and in the past three years, barely two witnesses have been recorded. It needs no saying that the trial is likely to take a long time. Considering the totality of circumstances, the Applicant is granted Regular Bail, on the following terms and conditions:



- a) The Petitioner/Applicant 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/Applicant shall appear before the Court as and when the matter is taken up for hearing;
- c) The Petitioner/Applicant 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/Applicant shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the Petitioner/ Applicant changes his residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

32. The copy of this Order be communicated to the concerned Jail Superintendent, as well as, to the learned Trial Court for information and compliance.

33. The Bail Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

AUGUST 25, 2025

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