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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1525/2025**
SHIVANI

.....Petitioner
Through: Mr. Rajesh Kumar, Ms. Anjali Rana,
Mr. Jay Prakash, Ms. Madhu Sharma,
Mr. Arun Yadav & Ms. Nidhi
Sharma, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent
Through: Mr. Sanjeev Sabharwal, APP for the
State

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER
13.10.2025

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1. Applicant herein seeks regular bail in case FIR No. 533/2024, dated 30.08.2024 for the alleged offences under Sections 103(1) (Punishment for Murder) of the BNS registered at PS Khyala, Delhi. Investigation is over and charge sheet has been filed. Trial is underway.
2. The previous regular bail application of the Applicant/Accused was dismissed by the Ld. Special Judge, Tis Hazari Courts vide an order dated 28.03.2025.
3. Briefly stated, as per the charge sheet, the husband of the applicant reported that their five-day-old daughter was missing. He informed that after having dinner with his family around 11 p.m., he went to sleep. At about 4



a.m., his wife, Shivani (the applicant herein), woke him up and told him that their newborn daughter, aged five days, was not to be found anywhere.

3.1 During investigation, the police noticed a large quantity of garbage lying on the roof of an old single-storey house situated adjacent to the southern side of the complainant's residence. From above, they observed a cloth bag amidst the garbage. Upon inspection, they found a red and white carry bag inside which lay the body of a newborn baby girl. The complainant identified the deceased as his missing infant daughter. He also confirmed that the bag was the same one his wife had used to carry her clothes home upon discharge from the hospital on 29.08.2024, just a day prior to the incident.

3.2 Inspection of the scene, coupled with the condition of the body, led investigators to suspect that someone had placed the newborn in a bag and thrown her from the fourth-floor roof of the house onto the roof of the adjoining single-storey house, with the intention to kill.

3.3 Subsequently, the family members of the deceased baby were examined, and their statements were recorded. However, the mother of the deceased, Shivani (the applicant herein), was evasive and did not respond properly to police queries, avoiding questions on one pretext or another.

3.4 The father, in his statement, told the police that the newborn was their fourth daughter. The first two daughters had died due to medical complications, and the third daughter, aged two and a half years, was alive at the time of the incident. He further stated that when their third daughter was born, people would tell his wife that if she gave birth to a boy next time, their family would be "complete." He added that his wife often worried about this and would ask him what would happen if a boy was not born.



3.5 The landlord, Mr. Mithilesh Kumar, in his statement to the police, stated that on the night of the incident, he was unable to sleep after working late. Around 3:30 a.m., he went out for a walk and saw Shivani, daughter of Ramu Gautam, standing on the fourth floor of her house. He witnessed her throwing a bag from the roof onto the adjacent rooftop. At that moment, he assumed she was discarding garbage, as others in the area often did the same. Later, upon learning of the incident, he expressed his belief that Shivani herself had killed her daughter, placed the body in a bag, and thrown it from the fourth floor of House No. RZ-14, Gali No.1, Ravi Nagar, Khyala, Delhi, onto the roof of the adjoining one-storey house.

3.6 Based on the statements recorded under Section 161 Cr.P.C., along with the MLC, post-mortem report, and other material evidence on record, the investigation concluded that there was sufficient evidence to file a charge sheet under Section 103(1) of the Bharatiya Nyaya Sanhita (BNS) against the accused, Shivani, whose name appears in column no. 11 of the charge sheet.

4. In the aforesaid back drop, learned counsel for the applicant argues the defence contends that during the trial, prosecution witnesses PW-1 Vimlesh Kumar, PW-2 Ramu Gautam, PW-3 Soni Gautam, and PW-10 Mithilesh Kumar did not support the prosecution case. Their testimonies, in fact, contradict and disprove the allegations, completely exonerating the petitioner and making the chances of conviction remote and bleak.

4.1 It is further pointed out that the petitioner was on the fourth floor at the time of the incident, but no investigation was conducted regarding persons residing on the first, second, and third floors. The police's failure to examine them demonstrates a casual and biased investigation, suggesting



that the agency was aware from the beginning of the petitioner's innocence.

4.2 The CCTV footage covers only the ground floor, showing no external entry or exit from the building. However, since 8–10 families reside on different floors, and no inquiry was made regarding them, it remains possible that someone other than the petitioner committed the act.

4.3 The police also failed to investigate whether the main door of the house was locked. On the fourth floor, four families occupy four rooms, sharing a common staircase and washroom, giving multiple people access to the room where the petitioner was sleeping with her infant.

4.4 The petitioner has no prior criminal history and possesses clean antecedents. She has already endured extreme emotional and psychological trauma from the death of her newborn child. Moreover, she suffers from serious health problems, is under medical treatment while in custody, and her condition has deteriorated in jail, making continued detention without proper medical care a serious threat to her health.

4.5 Additionally, the petitioner is the mother of a two-year-old daughter who currently lacks adequate care, as no family member is available or capable of looking after her. The separation from her young child has further worsened the petitioner's mental and emotional state.

4.6 Her prolonged detention has caused irreparable emotional and psychological harm, particularly given her recent personal tragedy. The combined impact of her loss, ill health, and incarceration calls for compassionate consideration by this Court.

5. Learned APP opposes the bail and urges that the applicant/accused is under continuous medical care of the Jail visiting Doctor and Doctors posted in CJ-06 Dispensary. All prescribed medicines are provided to her from CJ-



06 Dispensary. The allegations against the applicant are very serious in nature of killing her own 5 day old daughter and she may abscond if let out on bail.

6. I have heard the rival contentions and perused the case file. It does not appear to be a case of bail at this stage for the reasons stated here in after. At the outset, as regards the arguments on merits of the culpability of the applicant canvassed by the learned counsel for petitioner/applicant, no opinion is being expressed either way same being matter of trial.

7. Having given my thoughtful and anxious consideration to the matter, I find myself constrained to observe that no rational or convincing explanation has been offered as to how a five-day-old infant, who was incapable of any independent movement, could have “flown” or fallen out of the bed on her own and landed from fourth floor at the first floor, resulting in her instantaneous death. Such a theory is contrary to common sense, human conduct, and the ordinary course of natural events.

8. It is evident that the circumstances surrounding the death of the infant remain within the exclusive knowledge of the mother, who was present with the child at the relevant time. Yet, despite opportunities both during the hearing and throughout the investigation, no cogent or plausible explanation has been forthcoming from the applicant. The material unearthed by the investigating agency, viewed collectively, raises grave and serious suspicion regarding the applicant’s conduct and her role in the incident.

9. As regards the progress of the trial, it is pertinent to note that this is not a case where the applicant can claim the benefit of delay attributable to the prosecution or the Court. The record reflects that within a short span of one year, 17 out of 25 prosecution witnesses have already been examined,



indicating that the trial is proceeding expeditiously and without any undue procrastination. Therefore, no argument founded upon delay or hardship can justifiably be advanced to seek indulgence of bail at this stage.

10. Having regard to the seriousness and gravity of the offence alleged and the circumstances in which the incident occurred, I am of the considered view that releasing the applicant on bail at this stage would be wholly inappropriate and contrary to the larger interests of justice. The alleged act involves the unnatural death of a helpless newborn, which not only shocks the conscience but also strikes at the very core of social and moral values.

11. In light of the status report filed by the prosecution, coupled with the sensitive and heinous nature of the accusation, no case for grant of bail or interference is made out.

12. Accordingly, the application is dismissed, with liberty to the applicant to renew her prayer for bail at a subsequent stage, depending on the progress of the trial.

13. Any opinion expressed here in above is only for the purpose of disposing of instant bail application and the learned trial court to proceed further without being influenced by it, either way.

ARUN MONGA, J

OCTOBER 13, 2025/nk/rs