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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1581/2025**

GOPAL

..... Applicant

Through: Mr. Sourabh Upadhyay,
Mr. Akash Yadav, Mr. Salil
Dixit, Mr. Amit Upadhyay
& Ms. Anshika Pandey,
Adv.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP
for the State
Inspector Mahinder Lal,
SHO, PS-Mayapuri
Inspector Narasi Prasad
Meena, PS- IGI Airport

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

25.04.2025

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CRL.M.A. 12497/2025 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking regular bail in FIR No. 150/2021 dated 17.05.2021 for offences under Section 302 of the Indian Penal Code, 1860 ('IPC') registered at Police Station IGI Airport.
4. The FIR was registered pursuant to a PCR call on 17.05.2021 regarding a person lying unconscious on the footpath in front of Centaur Hotel, IGI Airport, Delhi.
5. On arrival, the Police found the dead body of an African

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National. who was later identified as Jaina Sad Farah, lying face down in a pool of blood.

6. During the course of investigation, the applicant and other co-accused persons were arrested on 18.05.2021 and were charged for offences under Sections 302/394/201/34 of the IPC.

7. It was alleged that the applicant along with other co-accused persons was involved in robbing and murdering the deceased.

8. During investigation, the wallet of the deceased along with its contents was recovered from the applicant on the very next date of the incident on his disclosure statement. The medical examination of the applicant also revealed scratches on the forehead which also indicated that he was involved in a scuffle in the recent past.

9. The learned counsel for the applicant submits that the co-accused person, namely, Dilbagh was admitted on regular bail by the learned Court of Sessions and therefore, the applicant is entitled for bail on the ground of parity.

10. The learned Court of Sessions, while admitting the co-accused, Dilbagh on regular bail, dismissed the bail application filed by the applicant noting specific evidence against the applicant. It was noted that the evidence against the accused, Dilbagh is weak.

11. In the opinion of this Court, the applicant cannot claim parity. The charges have been framed against the applicant for the offences under Sections 302/394/201/34 of the IPC. The learned Trial Court was *prima facie* satisfied about the grave suspicion of the applicant committing the offence.

12. It has been held in a catena of judgments that while considering an application of the accused seeking bail, the Court



would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused as the same is a matter of trial.

13. It is well settled that the grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie* case, the severity of the crime and the likelihood of the accused fleeing from justice, among other considerations.

14. The applicant is alleged to have robbed and caused the death of the deceased. The recovery of the deceased's wallet and its contents have also been affected from the possession of the applicant. As per the medical examination of the applicant, unexplained injuries have been found on his person, which makes it apparent that the applicant was involved in a scuffle in the recent past. It further stated that the blood soaked clothes worn by the applicant, at the time of the incident, was concealed by him with an attempt to destroy evidence.

15. The allegations and charges at this stage are supported by the evidence, which would be tested after the trial is completed and the matter is ready for final hearing.

16. The applicant has been charged for the offence under Section 302 of the IPC for which the minimum punishment is upto life, The Hon'ble Apex Court, recently, in the case of **X v. State of Rajasthan & Anr. : 2024 INSC 909**, in a challenge to the order passed by the High Court of Rajasthan whereby the bail application filed by the accused was allowed observed as under:

"14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.



15. Over a period of time, ~~we had~~ noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

17. On being pointedly asked, it is informed that the trial has been proceeding in a speedy manner and 18 out of 28 witnesses have already been examined. Thus, in the opinion of this Court, the trial has been proceeding expeditiously, and at this stage it cannot be presumed that the trial will not conclude in a timely manner.

18. Though the applicant has spent a considerable period of time in custody, however, it cannot be ignored that the applicant, if convicted, would be sentenced to imprisonment for the remainder of his life.

19. For this reason, even though there has been a long period of incarceration, yet the same cannot be the only reason to grant bail to the applicant at this stage.

20. In view of the above, I find no merit in the present application.

21. The application is, therefore, dismissed.

22. The learned Trial Court is directed to expedite the trial and



conclude the examination of witnesses to ensure that justice is served in a timely manner.

23. It is made clear that the observations made in the present order are only 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.

AMIT MAHAJAN, J

APRIL 25, 2025

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