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

+ **BAIL APPLN. 1654/2025**

**SHAMSHAD ALIAS HADDI**

.....Petitioner

Through: Mr. A. K. Dubey and Mr. Pawan  
Kumar, Advocates.

Versus

**GOVT OF NCT OF DELHI**

.....Respondent

Through: Mr. Amit Ahlawat, APP for State.  
Insp. Asheesh Kr., PS: Madhu Vihar.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
**01.05.2025**

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**CRL.M.A. 13144/2025(seeking exemption)**

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

**BAIL APPLN. 1654/2025**

4. The present application filed under Section 483 of the Bharatiya  
Nagarik Suraksha Sanhita, 2023<sup>1</sup> (formerly Section 439 of the Code of

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<sup>1</sup> "BNSS"



Criminal Procedure, 1973<sup>2</sup>) seeks regular bail in proceedings arising from FIR No. 20/2023 registered under Section 302/34 of the Indian Penal Code, 1860<sup>3</sup> at P.S. Madhu Vihar.

5. Brief facts of the case, as set out by the Prosecution, are as follows:

5.1 The present FIR was lodged on the basis of a statement given by Chirag @ Noni. He stated that on 13<sup>th</sup> January, 2023, at around 2:30 PM, he was at the DDA land situated behind Majboor Nagar, J.J. Camp, along with Tittu Gautam, Satyam, and Billu. At that point, S@W (CCL) and Rahul @ Lebra arrived and called Tittu Gautam aside under the pretext of having a conversation with him. Shortly thereafter, both of them attacked him with knives, causing grievous injuries. Chirag @ Noni, accompanied by Satyam and Billu, immediately transported Tittu Gautam to LBS Hospital, Khichripur, where he was declared 'brought dead' and a Medico-Legal Case (MLC) was registered. Consequently, the present FIR was registered.

5.2. On 16<sup>th</sup> January 2023, accused S@W (CCL) and Rahul @ Lebra were arrested from Patparganj Village. Information revealed during their interrogation, and with assistance from the crime team, the weapon of offence was recovered from the roof of House No. 126-C/2, Patparganj, New Delhi.

5.3 During interrogation, the accused namely, S@W (CCL) and Rahul @ Lebra disclosed the involvement of other individuals, including the present Applicant (Mohd. Shamshad @ Haddi), along with Afazaal, Arshad, Laila @ Sohil, and others, who were part of the criminal conspiracy and played varying roles in the execution of the murder.

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<sup>2</sup> "Cr.P.C."

<sup>3</sup> "IPC"



5.4 The CCTV footage from the residence of Rahul @ Lebra (A-42, Joshi Colony, I.P. Extension, New Delhi) captured the presence of S@W (CCL), the Applicant, and Rahul @ Lebra standing outside the premises between 1:25 AM and 1:40 AM. The footage shows the Applicant handing over a knife to Rahul @ Lebra. The Digital Video Recorder (DVR) containing the footage was seized and sent to FSL Rohini for expert analysis.

5.5 Thereafter, all the accused persons, including the Applicant, were seen together at A-27 Majboor Nagar, J.J. Camp, as captured by another CCTV camera installed near an abandoned dispensary. They entered the dispensary and remained there for approximately five minutes, before dispersing in different directions as per their premeditated plan. The murder was subsequently executed in broad daylight at a crowded location by Rahul @ Lebra and S@W (CCL).

5.6 Thus, the Applicant not only provided the weapon used in the crime but was also actively involved in the planning phase. He remained with the co-accused at the dispensary prior to the incident and coordinated with them through WhatsApp calls, which were later uninstalled from their mobile phones to destroy evidence. The mobile phones of the accused were seized and sent to the Forensic Science Laboratory (FSL) for data retrieval; however, the FSL report is still pending.

5.7. In the above circumstances, the Applicant was arrested on 22<sup>nd</sup> January, 2023.

6. Counsel for Applicant urges following grounds for grant of bail:

6.1 The Applicant has been falsely implicated in the present case. The Applicant has not even been named in the FIR, and it is co-accused namely, S@W (CCL) and Rahul @ Lebra who murdered the deceased Mr. Tittu



Gautam.

6.2. Further, the statement of eyewitnesses does not indicate the presence of the Applicant on the crime scene or that he killed the deceased.

6.3 The chargesheet has already been filed, and the investigation has been concluded. Thus, no purpose would be served by prolonging the incarceration of the Applicant.

6.4. The Applicant has been in judicial custody since 22<sup>nd</sup> January, 2023. The prosecution has listed 32 witnesses, and charges have been framed. However, despite this, the trial has not made any significant progress, and no witnesses have been examined so far. Thus, the conclusion of trial is likely to take time, and the Applicant is entitled to bail keeping in view his right under Article 21 of the Constitution.

6.5 No recovery has been made from the Applicant's possession. The sole allegation against the Applicant in the chargesheet is that he allegedly handed over the weapon of offence to S@W (CCL) a day prior to the incident. This claim, in isolation, is insufficient to justify the Applicant's implication in the case.

6.6. The co-accused namely Mr. Arshad and Mr. Afzal, Mr. Saleem have been granted bail. Thus, even on the grounds of parity the Applicant is entitled to bail.

7. The bail application is opposed by Mr. Amit Ahlawat, APP for State. He submits that the Applicant was actively involved in the criminal conspiracy leading to the murder of Tittu Gautam. The CCTV footage clearly shows the Applicant handing over the weapon of offence to one of the co-accused. Thus, there is sufficient material to implicate the Applicant. Further, the allegations are grave and serious in nature. Moreover, key



prosecution witnesses are yet to be examined, and the accused resides in the same locality as the witnesses, raising a substantial risk of threat or influence being exerted over them.

8. The Court has carefully considered the rival submissions and perused the material on record. The allegations in the present case concern a homicidal assault resulting in the death of a young man in broad daylight. Charges have been framed against the Applicant under Sections 302 and 120B of the IPC. The offence alleged is of a grave nature, with a potential punishment extending to life imprisonment or death. While the Applicant is not named in the FIR and is not stated to have directly participated in the physical assault, the prosecution's case attributes to him an active role in the criminal conspiracy that culminated in the fatal incident.

9. The material gathered during investigation includes CCTV footage which, according to the prosecution, shows the Applicant handing over a knife to co-accused Rahul @ Lebra on the night preceding the incident. The said knife is allegedly the weapon used in the crime. The footage has been seized and sent for forensic analysis, and its evidentiary value will, of course, be tested at trial. However, at this stage, for the purposes of bail, such material must be analysed on a *prima facie* basis. When this crucial footage is examined in conjunction with the subsequent CCTV footage showing the Applicant with the co-accused at the dispensary shortly before the murder, and the alleged use of encrypted communications *via* WhatsApp calls, it lends *prima facie* credence to the prosecution's case of a premeditated conspiracy. In this context, the Applicant's proximity in time and action to the actual commission of the offence assumes significance.

10. The contention that the Applicant has not been named in the FIR and



that no recovery has been effected from him is not, in itself, decisive. The law is well-settled that the non-mention of an accused in the FIR is not fatal if subsequent investigation reveals material suggesting complicity in the offence.<sup>4</sup>

11. Further, bail cannot be granted in serious offences merely on the basis of delay in trial unless the Court is satisfied that the delay is wholly unjustified and the accused has no role in protracting proceedings. The liberty under Article 21 is not absolute, and must be harmonised with the larger societal interest of fair and unimpeded trial. The role ascribed to the Applicant, though not of a principal assailant, is not peripheral either, particularly if the alleged supply of the murder weapon and participation in pre-offence planning are established. The conduct of the accused, the gravity of the offence, and likelihood of tampering with evidence are all relevant considerations in determining the question of bail. In the present case, key prosecution witnesses remain to be examined. The Applicant is a resident of the same locality as several witnesses and was, as per the prosecution, closely connected with the principal perpetrators of the crime. The apprehension that he may influence or threaten witnesses cannot be dismissed as unfounded at this stage.

12. In these circumstances, the Court does not find it to be a fit case for grant of bail at this stage. The application is accordingly dismissed.

13. However, it is clarified that nothing observed herein shall be construed as a conclusive expression on the merits of the case. The Applicant shall be at liberty to renew his prayer for bail at an appropriate

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<sup>4</sup> *Vinod G. Asrani v. State of Maharashtra* 2007 (3) SCALE 241; See also: *State of Maharashtra & Anr Vs. Mohd. Sajid Husain Mohd. S. Husain* (2008) 1 SCC 213



stage, before the trial court, particularly after the examination of material prosecution witnesses, if the circumstances so warrant. The same shall be considered on its own merits in accordance with law.

**MAY 1, 2025**  
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**SANJEEV NARULA, J**