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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1765/2025

SALMAN

.....Applicant

Through: Mr. Mutiur Rehman,
Mohd. Danish, Ms.
Shaheen, Ms. Mehwish
Khanam, Ms. Arshi &
Mohammed Salman,
Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar
Chahar, APP for the State.
Insp. Jaiprakash Nagar, PS
IP Estate, Insp. Ganesh
Kumar, PS BH Rao.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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26.05.2025

1. The present application is filed seeking regular bail in FIR No. 208/2022 dated 13.06.2022, registered at Police Station IP Estate for offences under Sections 302/307/34 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1859. Supplementary chargesheet was filed against the applicant under Sections 302/307/120B/34 read with Section 174A of the IPC.

2. The FIR was registered pursuant to a complaint filed by the father of the deceased namely– Farman, alleging that the accused Raj Kumar @ Bholu along with his associates had inflicted fatal injuries upon the deceased Farman which led to his death. It is alleged that the deceased was married to one Aaliya and was in some matrimonial dispute with her. Aliya had also filed a complaint against the deceased with CAW Cell. It is

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alleged that accused Samreen, who is Aliya's sister had instigated her husband Raj Kumar @ Bhola to teach a lesson to the family of the deceased, pursuant to which accused Raj Kumar @ Bhola on 12.06.2022 alongwith his associates, went to the house of the complainant and called for the deceased. It is alleged that when the deceased came out, accused Raj Kumar @ Bhola and co-accused Mustkeen stabbed him to death while using a knife. It is alleged against the applicant that he along with others including co-accused Sabir had blocked the road and kept a watch.

3. The learned counsel for the applicant submits that applicant has unnecessarily been implicated in the present case. He submits that the applicant has been implicated solely for the reasons that on the day of the incident, there were two calls exchanged between accused Raj Kumar @ Bhola and the applicant, and that the applicant was known to the family of the accused as well as the deceased. He submits that even as per the case of the prosecution, the injuries were inflicted by the accused Raj Kumar @ Bhola, which led to the death of the deceased.

4. The learned Additional Public Prosecutor for the State opposes the application for bail. He submits that CDR clearly shows that the applicant was present at the time of the incident. He further submits that one eye witness has also identified the applicant to be present at the time of incident.

5. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; the danger of the accused



absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

6. At this stage, the allegation against the applicant is that he had accompanied the accused Raj Kumar @ Bhola, who had some acrimony with the deceased and that he was standing to keep a watch while the accused Raj Kumar @ Bhola along with his other associates committed the murder. The allegation against the applicant at this stage is not that he inflicted the injuries upon the deceased.

7. As per the status report, six persons can be seen in the CCTV footage in respect of the incident of murder. It is also pointed out that PW-5 in her deposition stated that the applicant could not be seen in the CCTV played in the Court.

8. It is not in doubt that in certain circumstances, the circumstantial evidence is sufficient for the conviction of the accused persons. The same, however, has to be seen after the entire evidence is led. At this stage, it cannot be said with certainty that the applicant was aware of the accused Raj Kumar @ Bhola's intention to commit murder. His presence at the time of incident is also subject matter of trial and ought not be commented upon at this stage.

9. It is pertinent to note that this Court, on a previous occasion had granted bail to the co-accused Samreen *vide* order dated 20.09.2024.

10. It is further submitted that applicant accused has clean antecedents and has been in custody since 03.03.2023. It is stated that only five witnesses have been examined out of 45 witnesses. Trial is not likely to be concluded in the near future.

11. The Hon'ble Apex Court in the case of ***Union of India v.***



K.A. Najeeb : AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

12. While it cannot be denied that the offence alleged against the applicant is heinous in nature, the Hon'ble Apex Court in the case of **Javed Gulam Nabi Shaikh v. State of Maharashtra and Another: Crl.A.2787/2024** has observed as under:

“19. 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 the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

13. Without commenting further on the merits of the case, keeping the facts and circumstances in mind and the fact that the trial is likely to take some time, I am satisfied that the applicant has made out a case for grant of regular bail.

14. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

15. The applicant is, therefore, admitted on bail and is directed to be released (if not required in any other case) on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like



amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

16. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

17. It is clarified that any observations made in the present order are 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.

18. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 26, 2025 / "SK"