



\$~1

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

+ **BAIL APPLN. 1745/2024 and Crl.M.A. No. 1449/2025**

NAND DASS

.....Petitioner

Through: **Ms.Dolly Sharma, Advocate**

versus

STATE

.....Respondent

Through: **Ms.Priyanaka Dalal, APP for State
with Inspector Narender, PS Nangloi.**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

06.08.2025

%

1. Applicant, a co-accused, before this court, having remained under incarceration for more than 4 years, seeks bail during the pendency of the trial which is though underway but at a snail's pace. He is implicated in an FIR bearing No. 27/2021 dated 17.01.2021 allegedly for offences attracting Sections 302/34 of the IPC registered at Police Station Nangloi.
2. The prime accused is son of the applicant. As per the prosecution son was a juvenile at the relevant time and allegedly applicant was an accomplice in the crime in question.
3. Per FIR, the complainant, Akshay @ Martin, 21 years old and a resident of Camp No. 2, Nangloi, Delhi, stated that on 17.01.2021 at around 11:30 AM, he was playing cricket near a park in Veena Enclave, Nangloi, along with his cousin Abhishek @ Chaklet and others. A group of boys,



including the son of Nand Dass, objected to their playing, which led to an argument. A similar altercation had taken place at the same location the previous day. During the argument, one of the boys said that Abhishek should be "taught a lesson" and instructed another boy to bring a knife from his father, Nand Dass, who was standing nearby.

3.1. The knife was brought, handed over, and Abhishek was stabbed in the stomach in the presence of and on the instruction of Nand Dass. As Abhishek began bleeding heavily, Akshay initially tried to take him to the hospital on a motorcycle. Nand Dass also accompanied them and sat with the victim as they went to Sonia Hospital, where Abhishek succumbed to his injuries during treatment.

3.2. The hospital staff and police were informed, and Nand Dass was apprehended at the hospital by a crowd. Police visited the scene and the hospital, preserved the body at Sanjay Gandhi mortuary, collected evidence, and recorded Akshay's eyewitness statement.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

5. The Learned Counsel would strenuously argue that the applicant has not caused any injuries to the victim and is being falsely implicated. The counsel submits that the prosecution has failed to prove any motive of the applicant behind the alleged offence, it is further submitted that even as per the case of the prosecution the applicant had taken the accused to the hospital and had no intention to commit the alleged offences.

5.1 The Learned Counsel submits that no blood was found on the alleged weapon of offence i.e. knife and no fingerprint of the applicant was found on the weapon which shows that alleged weapon of offence is planted one and



for this reason no witness from public was made party to the alleged recovery.

5.2 The counsel further cites ***Inspector of Police vs Laly @Manikandan & Another Etc.*** 2022 SCC OnLine SC 1424 to urge that Recovery of the weapon used in the commission of the offence is not a *sine qua non* to implicate an accused.

5.3 The Learned Counsel for the applicant would next contend that the material Prosecution Witness have been examined, there are material contradictions and no corroborations in their statements and has not supported the case of the Prosecution, which shows that the Applicant has been falsely implicated.

5.4 The Learned Counsel also submits that there is failure on the part of the police to join any public persons as witnesses at the time of arrest of the Applicant nor any notice was issued to the public, which creates doubt about fairness of the investigation.

5.5 The Learned Counsel further submits that the applicant has been in judicial custody and has undergone a period for more than also argues that the trial is at the stage of prosecution evidence and it shall take a considerable time, and the custody of the applicant is not required.

5.6 The Learned Counsel cites ***Satender Kumar Antil vs. CBI*** 2022 SCC OnLine SC 825 to urge that delay in trial and internment for a prolonged period as an under trial must be factored in while dealing with an application for bail.

5.7 The Learned counsel on the ground of parity seeks support of the fact, court is generally granting regular Bail to the jail inmates after such a long duration of custody who are charged with similar offence.



7. In the aforesaid backdrop, I have heard the learned counsel for the parties.
8. Learned APP for State vehemently opposes the bail stating that the applicant is not only involved in the heinous crime but even otherwise as per the nominal role, his conduct in jail is not satisfactory. She also pointed out that the in case he is let out at this stage, possibility of his either tempering with the evidence or influencing the witness, cannot be ruled out.
9. Having heard the matter and perused the case record, I am of the view that the applicant is entitled to bail at this stage. The reasons thereof are set out in the following paragraphs.
10. Addressing first the contention of the learned APP regarding the applicant's alleged unsatisfactory conduct in jail, the nominal roll does not reflect behavior serious enough to warrant denial of bail, which otherwise appears justified at this stage. Moreover, the applicant has already been punished for this conduct in accordance with the Jail Manual, and he cannot be penalized twice for the same act.
11. As to the applicant's entitlement to bail, it may be noted that although there are allegations that, being the juvenile accused's father, he was complicit in the crime, the prosecution itself concedes that after the unfortunate incident resulting in the victim's death, it was the applicant—along with others—who immediately took the injured to the hospital. This action, on the face of it, indicates a lack of criminal intent or active participation in the offence.
12. Moreover, the applicant has been in judicial custody for over four years. During this period, he was released on interim bail, and he did not misuse the liberty granted. He complied with all conditions of bail and duly



surrendered thereafter.

13. The applicant is stated to be a well-rooted member of society, with a wife, two daughters, and a juvenile son who is also an accused in the present FIR.

14. In response to a query by the Court, the counsel for applicant stated that the applicant is the sole breadwinner of the family, and in his absence, the family is suffering from extreme financial hardship and is struggling to meet basic needs.

15. The delay in the recording of the prosecution evidence, currently is attributable to the prosecution and/or the witnesses who are not appearing despite repeated opportunities.

16. The apprehension that the applicant may influence the eyewitness if released appears to be based on mere suspicion, especially given that he has already been in custody for more than four years.

17. Furthermore, concerns about tampering with evidence are misplaced, as all relevant material has already been seized by the prosecution and is no longer within the applicant's reach. There is no indication or likelihood that he would engage in such conduct.

18. Taking wholesome view, the instant application is allowed. Applicant is directed to be enlarged on bail on furnishing of bail bonds and surety of the amount to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the other bail conditions, which are to be imposed and deemed appropriate in accordance with law.

19. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed



without being influenced either way by the same.

20. The bail application is disposed of accordingly.

ARUN MONGA, J

AUGUST 6, 2025/HD/SV