



\$~5

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

+ **BAIL APPLN. 1867/2025**

AKSHAY KUMAR

.....Petitioner

Through: Mr. S.P. Sharma, Adv.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the State.
Ms. Sakshi Sachdeva and Ms. Ritika,
Advocates for the complainant.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

25.07.2025

%

1. By way of the present application, the applicant is seeking regular bail in case arising out of FIR bearing no. 34/2021, registered at Police Station Mahendra Park, Delhi for the commission of offences punishable under Sections 302/34 of Indian Penal Code. 1860 (hereafter 'IPC').
2. Brief facts of the case are that on 22.01.2021 at about 11:29 PM, PS Mahendra Park had received information via DD No. 109A regarding a violent quarrel and an injured person at I-Block, DDA Market, Jahangirpuri, Delhi. ASI Joginder, along with police staff, had reached the spot and found bloodstains, but the injured had already been shifted to BJRM Hospital. It was also learnt that one accused, Manish, had been apprehended by the beat staff. ASI Joginder had proceeded to BJRM Hospital and obtained MLC No. 169401/21 of the injured person, Rahul. As per the MLC, Rahul had



sustained injuries due to a physical assault and had been referred to Safdarjung Hospital for further treatment as he was unfit for statement. Thereafter, ASI Joginder recorded the statement of an eyewitness, Mr. Beni Prasad, who worked as a night watchman at I-Block Market. He stated that around 10:30 PM, he saw three to four boys, including Rahul and Manoj (alias Manoj Bhaya), both residents of J-Block, preparing to cut a cake as part of a birthday celebration. However, an argument broke out between them, and during the altercation, a third boy (Manish) snatched Beni's wooden stick and started beating Rahul, while Manoj struck Rahul on the head with a stone. Manoj allegedly said, "Manish, today let's finish him," and both, along with others including Akshay Kumar and Ankit, assaulted Rahul. Some people intervened, and while the accused fled, Manish was caught by a police officer. Based on the account of eyewitness Sh. Beni Prasad, the present FIR was registered on 23.01.2021 for commission of offence under Sections 307/34 of IPC.

3. The crime team had inspected the spot, and blood-stained articles including a stone, bamboo stick, and the accused's clothes had been seized. Manish had disclosed the names of co-accused Manoj, Akshay, and Ankit. Later that day, DD No. 50A was received from Safdarjung Hospital informing that victim Rahul had succumbed to his injuries. The investigation was accordingly transferred to Inspector Ravi Kant, and Section 302 of IPC was added. The remaining accused, i.e. Manoj @ Bhaya, Akshay Kumar (present applicant), and Ankit, were arrested the same day. It was revealed that due to prior enmity and under the influence of alcohol during Manoj's birthday celebration, the accused persons had assaulted Rahul with a bamboo stick and stone, leading to his death.



4. The learned counsel appearing for the applicant states that the applicant has no criminal antecedents and he has been falsely implicated in the present case. It is argued that a bare perusal of the FIR makes it evident that the allegations levelled against the accused are completely vague and based upon the concocted story as there is no allegation against the present accused. It is submitted that during the course of the trial, only four witnesses have been examined before the learned Trial Court in the last 3 years, despite the prosecution having filed a lengthy list of witnesses. It is also contended that the complainant and eye witness in the present case, i.e. PW-2 Beni Prasad has failed to identify the accused/applicant during his examination before the Trial Court. It is further stated that the present applicant had not hit the deceased with the stone slab due to which the deceased had expired, as also confirmed by PW-3, Sh. Amrik Singh. Thus, it is prayed that the applicant be granted regular bail.

5. The learned APP for the State, on the other hand, argues that the accusations against the applicant are serious in nature and specific role has been assigned to him in the statements of the witnesses. He also argues that the CCTV footage and the statement of PW-3 Amrik Singh support the case of the prosecution that the applicant herein was not only standing at the spot but also beating the deceased. It is also stated that the witness, who had turned hostile i.e. PW-2 Beni Prasad has stated that due to old age, he is not able to properly recognize the persons in the CCTV footage. However, the entire evidence and the CCTV footage point out towards the involvement of the present accused. PW-3 has also deposed against the present applicant. It is thus prayed that the present bail application be dismissed.



6. This Court has **heard** arguments addressed on behalf of both the sides and has perused the material available on record.

7. After hearing arguments and having given thoughtful consideration to the material on record, this Court is of the opinion that the post-mortem report in this case revealed that 19 ante-mortem injuries were found on the person of the deceased, including head injury. The cause of death has been opined to be the head injury and other injuries, which were sufficient to cause death.

8. PW-3 Amrik Singh has supported the prosecution's case, and deposed that he had seen accused Manish @ Mannu take a danda from the watchman (Chowkidar) and start beating Rahul with it; meanwhile, Manoj Bhaya had snatched the danda from Manish and continued beating Rahul, while accused Akshay had assaulted Rahul with fist blows and kicks, and accused Ankit had picked up a brick and hit it on Rahul. Thereafter, Manish had lifted a stone slab lying nearby and had struck it on Rahul's head, and had repeatedly hit the same on Rahul's chest and head. Due to the beatings inflicted by all the accused, Rahul had fallen down, started bleeding, and became unconscious. Thus, the role of the present applicant Akshay in beating the deceased has been disclosed by PW-3.

9. Further, the present applicant was present at the spot and the CCTV footage, as per record, reveals not only the presence of the applicant along with co-accused persons at the spot but also his involvement in the commission of offence in question. The argument that the deceased was hit with stone slab (which had caused grievous injuries) by co-accused and not specifically by the applicant (who even allegedly had hit the deceased with



fist and blows), loses significance since charges under Section 302/34 of IPC have been framed against all the accused persons in this case.

10. As held by the Hon'ble Supreme Court in ***X v. State of Rajasthan***: 2024 SCC OnLine SC 3539, in cases involving serious offences like rape, murder, dacoity, etc., the Courts should be loath in entertaining the bail application - once the trial commences and the prosecution starts examining its witnesses. Material prosecution witnesses in the present case are yet to be examined.

11. Considering the overall facts and circumstance of the case and the evidence and the statements of the witnesses on record, no ground for grant of bail is made out.

12. The application is accordingly dismissed.

13. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 25, 2025/A