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

+ **BAIL APPLN. 1822/2024**

MOHD. ABRAR ANSARI

.....Petitioner

Through: Mr. Umesh Kr. Burnwal, Mr.
Paramjeet Singh and Mr. Ravikant
Kumar, Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Tarang Srivastva, APP for the
State.
Inspector Chote Lal, P.S.: Sarai
Rohilla.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

24.02.2025

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973, the petitioner seeks grant of regular bail in case FIR No. 0017/2022 dated 07.01.2022 registered under sections 302/201 of the Indian Penal Code, 1860 at P.S.: Sarai Rohilla, Delhi.

2. Notice on this petition was issued on 21.05.2024, pursuant to which Status Report dated 30.07.2024 has been filed by the State.
3. Nominal Roll dated 27.07.2024 has been received from the concerned Jail Superintendent.



4. In view of the mandate of the Supreme Court in ***Jagjeet Singh & Ors. vs. Ashish Mishra @ Monu & Anr.***,¹ intimation is stated to have been served by the Investigating Officer ('I.O') on the next-of-kin of the deceased/Abhishek, namely his wife; however, the wife is stated to have said that she has since re-married and does not wish to be heard in the matter. A statement dated 13.12.2024 of the ex-wife to that effect has been appended to the status report filed in the matter.
5. Mr. Umesh Kr. Burnwal, learned counsel appearing on behalf of the petitioner argues, that the petitioner has been falsely implicated in the matter and the only role ascribed to the petitioner is based on his own disclosure statement, in which the petitioner is alleged to have disclosed that he had disposed-of the slippers and the cap of the deceased, which articles were however admittedly *never recovered* by the I.O.
6. Learned counsel submits, that the entire case of the prosecution hinges on the petitioner being one of the accused persons who was 'last seen' with the deceased; however, Mr. Burnwal argues, that the 'last seen' theory by itself does not suggest the petitioner's involvement in the murder; and that there is no eye-witness to the crime nor does the CCTV footage show the petitioner's involvement in the case.
7. Furthermore, Mr. Burnwal contends, that the petitioner has no previous criminal antecedents but he has been in continuous judicial custody for about 3 years now, from the time of his arrest on

¹ (2022) 9 SCC 321 at paras 22 & 23



11.01.2022; and that in the meantime chargesheet dated 07.04.2022 has been filed in the matter, while only 01 out of 36 prosecution witnesses has been examined so far.

8. Most importantly, learned counsel states, that a co-accused/Afzal Ansari has already been admitted to regular bail *vide* order dated 03.09.2024 passed by this court in BAIL APPLN. No. 2980/2022.
9. Accordingly, Mr. Burnwal prays that the petitioner be released on regular bail.
10. On the other hand, Mr. Tarang Srivastva, learned APP appearing for the State has vehemently opposed the bail plea on the ground that the petitioner has played an active role in the cold-blooded murder of the victim. It is argued that the petitioner was responsible for tying the body of the deceased with a plastic rope and of covering the mouth of the deceased with plastic packing thread, so as to ensure that there would be no chances of his survival.
11. Learned APP submits that the CCTV footage of the area on the date of the incident shows the victim standing near the door of 'Golden Bakery' owned by one of the co-accused Afzal Ansari; the victim is subsequently seen entering the bakery; whereafter the accused persons switched-off the CCTV camera system for about half-an-hour and then switched it back-on. It is pointed-out that the act of the accused persons deliberately switching-off the CCTV camera system for sometime, and subsequently switching it back-on, is a seriously incriminating circumstance, and points to them having committed the brutal murder of the deceased, whereafter they disposed-of his body in a pre-planned manner.



12. However, it is observed that since the prosecution itself says that the CCTV camera system of the spot was switched-off, there is very little that can be inferred as regards the presence of the petitioner at the spot at the relevant time; which the prosecution would have to prove in the course of trial.
13. Upon an overall conspectus of the facts and circumstances of the case, the following considerations weigh with the court *at this stage* :
 - 13.1. *Firstly*, the narration in the chargesheet shows that though the I.O. had sought to recover the slippers and the cap of the deceased based on the purported disclosure statement of the petitioner, since the petitioner is alleged to have disposed-of the same, neither the slippers nor the cap of the deceased have been recovered;
 - 13.2. *Secondly*, the allegation that the CCTV footage relating to the bakery of co-accused Afzal Ansari shows the deceased was 'last seen' *inter-alia* with the petitioner at around 04:30pm on 06.01.2022, whereafter he went missing, and was subsequently found dead, is piece of circumstantial evidence, which would have to be proved by the prosecution in the course of trial. Apart from this, there appears to be no cogent evidence on record, to connect the petitioner with the murder of the victim;
 - 13.3. *Thirdly*, the petitioner's nominal roll discloses that, as of date, he has suffered more than 03 years of judicial custody as an undertrial; that his jail conduct has been 'satisfactory'; and that he has had no other criminal involvement;
 - 13.4. *Fourthly*, it is evident that trial in the matter will take a long



time to conclude since the prosecution has cited 36 witnesses in support of their case, out of which only 01 witness has deposed before the learned trial court so far, while the petitioner has been in custody throughout; and

13.5. *Lastly*, co-accused Afzal Ansari, who is the main accused in the matter, has already been admitted to regular bail *vide* order dated 03.09.2024 passed by this court in BAIL APPLN. No.2980/2022.

14. In light of the above circumstances, this court is persuaded to admit the petitioner – **Abrar Ansari s/o Haider Ansari** – to *regular bail* pending trial subject to the following conditions :

14.1. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- (Rupees Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

14.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

14.3. If the petitioner has a passport he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of this court;

14.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise



indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and

- 14.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
15. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of bail
16. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
17. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
18. The petition stands disposed-of in the above terms.
19. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 24, 2025/ak