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

+ **BAIL APPLN. 1945/2025**

MANOJ @ TT

.....Petitioner

Through: Mr.Rajan Bhatia, Mr.Chandan and
Mr.Tribhuvan, Advocates

versus

THE STATE (GOVT, OF NCT OF DELHI)Respondent

Through: Ms.Priyanka Dalal, APP for the State
alongwith Insp.Manish Bhati, P.S.-
Bhalaswa Dairy

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **08.08.2025**

1. Accused of alleged offenses u/s 302/34 IPC and 27 of Arms Act, the petitioner herein seeks bail in FIR bearing No. 657/2022 registered at P.S. Bhalswa on 07/08/2022. Vide an order dated 17.03.2025 passed by Sushil Kumar, Ld. ASJ, North, Rohini Courts, Delhi, his earlier bail application was dismissed by the trial court.

2. It is alleged in the FIR that Petitioner along with two others shot dead Ankit Shukla on 07.08.2022 after an altercation and ran away from the spot. Subsequently, petitioner was arrested on the same day and has been confined to Judicial Custody since then.

2.1. Charges were framed by the learned trial court against all the accused persons vide order dated 21.03.2023. The co-accused Ashok and Deepak have been granted regular bail vide order dated 23.05.2023 and 14.02.2025,



respectively. However, subsequent thereto, when the present petitioner moved his regular Bail application, same was dismissed *vide* order dated 17.03.2025, *supra*. Hence the instant bail application.

3. In the aforesaid backdrop, I have heard learned counsel for the petitioner and respondent as well perused the material available on record.

4. The learned counsel for the petitioner submits that the petitioner's continued judicial custody serves no fruitful purpose.

4.1. The petitioner has already been in custody for more than 31 months, yet the prosecution has examined only 2 out of 23 cited witnesses to date.

4.2 The counsel further argues that the entire FIR is fabricated, pointing to the absence of witnesses at both the incident site and the hospital, as well as the unexplained delay in lodging the FIR. It is contended that the investigating agency manipulated facts and concocted a false narrative.

4.3 The trial court dismissed the petitioner's bail application by order dated 17.03.2025 on the ground that the examination of the complainant, the chief eyewitness, and other material witnesses was incomplete. However, the petitioner's counsel submits that the complainant has already been substantially examined, with only the production of her original statement recorded under Section 164 Cr.P.C. pending. Furthermore, a plain reading of the statements recorded under Section 161 Cr.P.C. reveals that PW Akash and PW Pankaj are not actual eyewitnesses to the incident. The testimony of the complainant also reflects material inconsistencies.

4.4 It is further urged that both co-accused have already been granted bail. On the principle of parity, the petitioner seeks similar relief, as his role is identical to that of the co-accused. Reliance is placed on *Bajrang Gupta v. CBI*, Bail App. No. 2496/2015, wherein the Allahabad High Court held that



if there is no real distinction between the roles of co-accused, the principle of parity applies and bail granted to one should ordinarily be granted to the other. The counsel also relies on *Babubhai v. State of Gujarat & Ors.*, (2010) 12 SCC 254, where the Supreme Court held that investigation into a criminal offence must be free from infirmities that could lead to legitimate grievances of unfairness or ulterior motive.

4.5 The petitioner's counsel further contends that the investigating agency failed to preserve crucial CCTV footage from three cameras at the incident site, which could have demonstrated the petitioner's innocence. No reliable independent witnesses have been produced to establish the petitioner's involvement, casting serious doubt on the integrity of the investigation. Reliance is placed on *Seema Singh v. CBI*, Criminal Appeal No. 569 of 2018, wherein the Apex Court held that while the gravity of an offence is a relevant consideration, bail should only be denied where there is reasonable evidence that the accused would abscond or tamper with evidence.

4.6 The counsel also highlights the prosecution's failure to produce credible independent public witnesses for an incident that allegedly occurred on a public road. It is submitted that being on bail would better enable the petitioner to prepare his defence and attend trial effectively. The counsel emphasizes the fundamental principle of presumption of innocence, under which bail is the rule and incarceration the exception, particularly when the accused has cooperated throughout the investigation and demonstrated good conduct.

5. The learned counsel for the respondent/APP strongly opposes the present bail application, contending that among the three accused persons, it is the petitioner who allegedly fired the shot that struck the deceased on the right



side of his chest. The respondent's counsel further argues that, given the gravity of the offence and the fact that the testimonies of material witnesses i.e. PW-2 and PW-3 have not yet been conclusively recorded before the learned Trial Court, bail cannot be granted at this stage.

6. In view of these submissions and the material on record, I find no ground to interfere with the present petition. It has been rightly pointed by learned APP that considering the gravity and heinous nature of the offence, wherein the petitioner is specifically alleged to have fired the fatal shot on the deceased with a firearm, possibility of influencing or intimidating the witnesses cannot be ruled out. Aforesaid key prosecution witnesses, who are material eyewitnesses, are yet to be examined. Granting bail at this stage poses a serious risk for them to depose fearlessly, thereby jeopardizing a fair trial.

7. The role attributed to the petitioner is direct and supported by prima facie material. The offence under Section 302 IPC carries the severest punishment, creating a strong likelihood of the petitioner absconding if released on bail.

8. Prolonged incarceration alone cannot justify bail when delay is not solely attributable to the prosecution. The nature and seriousness of the offence, the possibility of tampering with evidence, and the impact on society weigh heavily against grant of bail.

9. Accordingly, the present bail application stands dismissed at this stage.

10. However, considering that the learned APP has heavily relied on the incomplete testimony, as noted above, the applicant is granted liberty to file a fresh bail application at an appropriate stage, after the testimonies of PW-2 (eyewitness) and PW-3 (Pankaj) are conclusively recorded by the learned



Trial Court.

11. In the parting, the learned Trial Court is also requested to avoid granting unnecessary adjournments at the instance of the prosecution, particularly in light of the fact that the applicant has already undergone nearly three years of incarceration.

AUGUST 8, 2025
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ARUN MONGA, J