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

+ **BAIL APPLN. 1894/2024 & CRL.M.A. 291/2025**

HARFOOL MEENA

.....Petitioner

Through: Mr. Adarsh Kumar Tiwari, Mr.
Devesh Kumar, Mr. Vartika Maurya &
Mr. Akash Jaiswal, Advs.

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. Rajesh Kumar, SPP with Ms.
Mishika Pandita, Adv. for CBI.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

14.01.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the Code of Criminal Procedure, 1973, (for short, 'CrPC') has been filed seeking regular bail in FIR No. RC-06(S)/2021/CBI/SC-III/ND, under Sections 302/323/341/34 of the Indian Penal Code, 1860, (for short, 'IPC'), registered with CBI. Finally, the chargesheet in the present case was filed for the offences punishable under Sections 304/323 read with Section 34 of the IPC.
3. The case of the CBI/respondent, as per the status report dated 02.07.2024 authored by Sh. Ram Singh, Superintendent of Police, CBI, SC-III, New Delhi, is as follows: -

“2. It is submitted that FIR No. 451 of 2021 dated 09.08.2021 u/s 302, 323, 341 r/w 34 of IPC was lodged at PS: Hari Nagar, New Delhi against NarenderMeena, the then Dy. Superintendent (Chakkar) and other officials for murder of Under Trial Prisoner (hereinafter referred as UTP) Sh. AnkitGujjarand injuring 2 other UTPs. It is submitted



that UTP AnkitGujjar died due to hemorrhage consequent upon cumulative effect of multiple blunt force injuries sustained to body on 03/04.08.2021.

3. It is submitted that mother, sister and brother of the deceased preferred W.P.(Crl) No. 1558 of 2021 before this Hon'ble Court seeking transfer of investigation to CBI. This Hon'ble court vide judgment dated 08.09.2021 transferred the case to CBI and the said case was re-registered vide RC-06(S)/2021/SC-III/ND dated 10.09.2021 under sections 302, 323, 341, 34 IPC in the Special Crime-III, Branch of CBI, New Delhi.

4. It is submitted that charge sheet was filed on 02.07.2022 before the Ld. CMM, Rouse Avenue District Court against NarenderMeena. Supplementary charge sheet dated 15.09.2022 was filed before the Ld. CMM, Rouse Avenue District Court against five (05)present accused persons including the applicant HarfoolMeena, the then Warder, Tihar Central Prison, New Delhiu/s 304, 323 r/w 34 and was arrayed as A-4.

5. It is submitted that the accused NarenderMeena(A-1)preferred an application before Ld. Principal District and Sessions Judge cum Special Judge (PC Act) CBI, Rouse Avenue District Court seeking transfer of the case to a different court. The said application was dismissed vide order dated 26.08.2023.

6. It is submitted that accused NarenderMeena(A-1) preferred TR.P.(Crl.) No. 112 of 2023 before this Hon'ble Court against order dated 26.08.2023 passed by the Ld. District Judge alleging that the Ld. Judge hearing the case is biased and prejudiced against the petitioner. This Hon'ble Court dismissed the above-mentioned petition vide order dated 31.08.2023.

7. Thereafter, NarenderMeena (A-1) preferred SLP (Crl) No. 12055 of 2023 before the Hon'ble Supreme Court against order dated 31.08.2023 passed by this Hon'ble Court. The Hon'ble Supreme Court vide order dated 06.10.2023 was pleased to issue notice in the matter and directed the trial court to defer the proceedings insofar as any action against the petitioner therein. It is pertinent to mention that the applicant-accused herein has been arrayed as Respondent no. 6 in the SLP. The matter is still pending before the Hon'ble Supreme Court.

8. It is submitted that theapplicant-accused HarfoolMeena was arrested by CBI at SC-III Branch, CBI, New Delhi on 03.08.2022 and is presently in Judicial Custody. However, the applicant-accused has been enlarged on interim bail from 30.04.2023 to 07.05.2023, 05.06.2023 to 26.08.2023 and from 25.02.2024 to 16.03.2024.



9. It is submitted that applicant-accused preferred Bail application IA no. 24 of 2024 before the Ld. Special Judge seeking regular bail. Ld. Special Judge vide order dated 30.04.2024 dismissed the bail application preferred by the applicant-accused.

ROLE OF HARFOOL MEENA (A-4)

10. It is submitted that during investigation of this case, statements of eye witnesses recorded and other evidences established the role of accused Harfool Meena in commission of crime. Four (04) eye witnesses have seen him beating the deceased Ankit Gujjar which later on resulted into his death in the intervening night of 03/04.08.2021. It is pertinent to mention here that two (02) eye witnesses were the surviving victims of the use of criminal force by the accused, in the said offence. Copy of statements of eyewitness are attached herewith and marked as **Annexure R-1 (Colly)**.

11. It is submitted that eye witnesses have seen the accused beating the deceased and it is also on record that the witnesses were examined by SI Vikas Fageria, PS Hari Nagar, Delhi Police on 04.08.2021. The witnesses were in extreme pain. Their further statement was not recorded by Delhi Police. Further, the other two (02) eye witnesses who were transferred to Mandoli Central Prison have corroborated the statement of eyewitnesses/ victims with vivid account of the incident. Further, presence of eye witnesses at the scene of crime is established by forensic proof i.e. DNA on weapons of assault. The witnesses are yet to depose before the Ld. Trial Court.

12. It is submitted that the accused preferred discharge application before the trial court which was heard at length on merits. It is further submitted that the version of prosecution is strictly limited to facts disclosed by the witnesses and the documents collected during investigation. The lathi sticks were forensically examined before seizure. Further, the presence of DNA of all three (03) victims namely Ankit Gujjar, Gurjeet Singh and Gurpreet Singh on the weapons of offence (lathi sticks) leaves no room for doubting the credibility of the eye witnesses. The accused applicant was given ample opportunity to produce any information which could be verified and used to prove his innocence but the applicant failed to do so during investigation. The case was monitored by this Hon'ble Court and Status reports have been filed as and when directed by this Hon'ble Court.

13. It is pertinent to mention that Ld. Trial Court had proceeded with day-today hearing in the case after informing the same to the accused persons. All five (05) co-accused persons have furnished arguments on charge. However, A-1 Narendra Meena has caused a significant



delay in the trial by way of frivolous litigation.

14. It is submitted that the investigation of the case was transferred to CBI at an initial stage and final report and later on a supplementary report has been filed by CBI. Therefore, the averments that name of the applicant accused did not appear during initial investigation does not rid him of his involvement in the offence. The Ld. Trial Court has also given ample

15. It is submitted that the witnesses who have named the accused applicant are the eye witnesses of the case and their presence at the scene of crime has also been corroborated by forensic evidence. The fact that no fresh material was collected does not warrant an allegation that no further investigation was conducted as the accused applicant was arrested and his custodial interrogation was conducted. Investigation can be conducted to use the material already collected to confront the accused as well as giving the accused an opportunity to present his case in accordance with rules of natural justice. Ample opportunity was given to accused applicant to assist the investigation agency to collect any evidence that might favor him. However, the accused applicant chose not to cooperate with the investigation agency. It is evident that the investigation has been conducted impartially and without any prejudice to the accused applicant.

16. It is submitted that the right to speedy trial of the applicant is being infringed by rights exercised by his co-accused Shri Narender Meena (A-1) and the prosecution is not at all responsible for the same. It is not wrong to suggest that it is a well-orchestrated plan wherein one accused seeks stay on trial to delay the proceedings as a right to fair trial and other accused persons approach the Ld. Trial Court for bail on grounds of right to a speedy trial. It is submitted that the prosecution is also making earnest efforts to secure an early hearing in the matter.

18. It is submitted that the plea of alibi of the accused was considered and denied by the Ld. Trial Court as the plea can be taken if it was impossible for the accused to be present at the scene of crime. The fact that the accused was on duty at a ward which is about 100 meters away from the scene of crime cannot give him the benefit of plea of alibi.”

4. Learned counsel for the applicant submits that the latter was posted as warden of ward No. 5B and the alleged incident had taken place in ward No.



5A. It is pointed out that, as per the case of the prosecution, the latter was not named as an accused in the present case in the initial chargesheet filed before the Court of competent jurisdiction on 01.07.2022, and his name was kept in the column No. 12 of the said chargesheet based on the ground that further investigation was pending against them. He further submits that he was arrayed as an accused (A-4) by way of the supplementary chargesheet filed by the respondent on 13.09.2022. It is further contended that the present applicant was not present at the alleged crime spot and was posted in the different ward of the jail at the alleged point in time when the incident in the present case has stated to have been reported.

5. He further submits that the main accused person, Narender Meena (A-1), in the present case, whose fight with the deceased was the genesis of the alleged incident, has already been granted bail by the Hon'ble Supreme Court *vide* order dated 06.01.2025 passed in Criminal Appeal No. 128/2025, SLP (Crl.) Bearing Diary No. 45425/2024. The order dated 06.01.2025 passed by the Hon'ble Supreme Court reads thus: -

“Leave granted.

The appellant has been charge-sheeted for the offences punishable under Section 304 and 323 read with Section 34 of the Indian Penal Code, 1860.

Considering the facts and circumstances of the case, we are inclined to set aside the impugned order and grant bail to the appellant.

Accordingly, the impugned order is set aside and the appellant is granted bail on terms and conditions to the satisfaction of the Trial Court.

The appeal stands allowed accordingly.

Pending application(s), if any, shall stand disposed of.”

6. *Per contra*, learned SPP for CBI/respondent submits that allegations made in the FIR against the present applicant are serious in nature and, as per



the statements of two eye-witnesses recorded on 04.08.2021 during the course of investigation, the present applicant was also seen beating the deceased during the said incident. He submits that, insofar as the plea of *alibi* raised by the present applicant is concerned, the same can be adjudicated by the learned Trial Court during the course of the trial.

7. He further submits that the presence of the applicant in a different ward of the same jail would not make any difference and his presence at the crime spot cannot be ruled out as he could have reached there within a very short span of time. It is further the case of CBI that the applicant was discharging duty in close vicinity to his other co-accused persons. He further submits that the BAIL APPLN. 1912/2023 filed on behalf of the main accused in the present case, i.e., Narender Meena (A-1), seeking regular bail was dismissed by Coordinate Bench of this Court, *vide* judgment dated 26.09.2024.

8. Heard learned counsel for the parties and perused the record.

9. Admittedly, as per the case of the prosecution itself, the present applicant was kept in column No. 12 of the initial chargesheet filed in the present case against A-1 (Narender Meena). It is a matter of record that in the statements of the two eye-witnesses namely, Gurpreet @ Badal and Gurjeet @ Bobby, recorded on 04.08.2021, the name of the present applicant has not been mentioned. The name of the present applicant had surfaced in the statements of the said witnesses which were recorded on 08.10.2021. Insofar as the contention of the prosecution that the applicant has played a key role in the death of the deceased by lending support to the main perpetrator of the crime, i.e., Narender Meena (A-1), who had given beatings to the deceased, is concerned, the said Narender Meena (A-1) has been granted bail by the Hon'ble Supreme Court *vide* order dated 06.01.2025. The role assigned to the



present applicant, as per the case of the prosecution, is similar to that of the main accused (A-1).

10. Nominal roll dated 14.01.2025 shows that the present applicant, as on 13.01.2025, has undergone incarceration for a period of 1 year 11 months 21 days and his conduct during the custody period is satisfactory. It further shows that the applicant was earlier released on interim bail on two occasions and he had not misused the liberty granted to him and had duly surrendered on time.

11. Charges in the present case are yet to be framed and completion of trial is likely to take time. Alleged prime accused (A-1) in the case has already been released on bail *vide* order dated 09.01.2025 passed by the learned Special Judge in pursuance of the directions passed by the Hon'ble Supreme Court *vide* order dated 06.01.2025.

12. In the totality of the facts and circumstances of the case, the present application is allowed and the present applicant is directed to be released on his furnishing a personal bond in the sum of Rs. 1,00,000/- alongwith one surety of the like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to the following conditions: -

- i. The applicant shall mark his attendance physically on every third Monday of each calendar month during the office hours with the concerned Investigating Officer of this case at CBI office, New Delhi for a period of six months, and thereafter, as directed by the learned Trial Court.
- ii. The applicant shall not leave India without prior permission of the learned Trial Court.
- iii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in



residential address.

iv. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.

v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

13. The present application is allowed and disposed of accordingly.

14. Pending applications, if any, also stand disposed of accordingly.

15. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.

16. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

17. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

JANUARY 14, 2025/nk

Click here to check corrigendum, if any