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

+ BAIL APPLN. 2000/2025 & CRL.M.A. 16289/2025
MOHD MUSHAQ @MUSHTAQ
@ SHAHZAD

.....Applicant

Through: Mr. Himanshu Batham
and Mr. Rishabh Kumar,
Advocates.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Ms. Richa Dhawan, APP
for the State with Insp.
Chhote Lal, PS Sarai
Rohilla.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.08.2025**

1. The present bail application is filed seeking regular bail in FIR No. 352/2019 dated 19.11.2019, registered at Police Station Sarai Rohilla, for offences under Sections 302/34 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959.
2. On 18.11.2019, information was received about injury being caused to the victim. When the police officers reached the spot, it was found that the victim had been rushed to a Hospital by his brother—Md. Arman. The victim was found to be brought dead at the Hospital.
3. The FIR was registered on statement of the victim's brother, who alleged that the victim was murdered by the applicant and two more accused persons by causing injuries with the knife.
4. The learned counsel for the applicant submits that the applicant is in custody for the last more than 5 years and the trial



is still not concluded.

5. He submits that there are various contradictions in the case of the prosecution. He submits that one such contradiction is that while the complainant claims that a CAT Ambulance was used to take the victim to the hospital, however, the FIR mentions the same to be a private vehicle.

6. He submits that the recovery of the alleged weapon is also not witnessed by any independent person.

7. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any liberty to the applicant owing to the gravity of offence.

8. I have heard the counsel and perused the record.

9. In the present case, serious allegations have been made against the applicant that he along with the two accused persons had caused stab injuries to the victim, which led to his death. It is alleged that the knife which was used for commission of the offence was recovered at the instance of the applicant and the blood stains on the same matched in the FSL report with that of the victim.

10. I have perused the evidence of the complainant/ eye witness. He has deposed before the Court that the applicant had held the hands of the victim and one co-accused, namely, Chiddi had held the victim's leg while the other co-accused stabbed the victim multiple times. He has stated that kicks and punch blows were also given to the victim. He has also identified the accused persons, including the applicant.

11. While it is argued that the applicant has already spent long period of time in custody, however, it cannot be ignored that the applicant has been charged for the offence under Section 302 of the IPC. The applicant, if convicted, would be sentenced to



imprisonment for life.

12. At this stage, the evidence *prima facie* indicates that the applicant has committed the offence and the allegations cannot be said to be without any material. In such circumstances, in the opinion of this Court, the applicant ought not to be released only for the reason that he has spent substantial period in custody.

13. Any discrepancies, as argued by the learned counsel for the applicant, would be seen at the time of final arguments and ought not to be commented upon at this stage. It is settled law that the Court would not be justified in going into evidence on record at such depth so as to ascertain probability of conviction of the accused as the same is a matter of trial.

14. In view of the aforesaid discussion, the present bail application is dismissed with a direction to the learned Trial Court to expedite the recording of the evidence. Pending application also stands disposed of.

15. It is made clear that the observations made in the present case are only for the purpose of considering the bail applications and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

AUGUST 29, 2025

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