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

+ BAIL APPLN. 2079/2025

MANDEEP ALIAS KRISHAN ALIAS KALAPetitioner

**Through: Mr.Gajraj Singh, Ms.Sakshi Sachdev
and Ms.Ritika Rajput, Advocates**

versus

THE STATE OF NCT OF DELHIRespondent

**Through: Ms. Priyanka Dalal, APP for State
with Inspector Surrender**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% 18.08.2025

1. The Applicant is before this Court seeking the grant of regular bail in relation to FIR No. 374/2017 dated 14.10.2017 under Sections 302/307/34 IPC and Section 25/27/54/59 of the Arms Act registered at Police Station Kanjhawala, Delhi. He has already been in custody for more than 7 years and 5 months.

2. Per FIR, the case set up by the prosecution/complainant is that on 13/10/2017, the complainant and his nephew were informed about a fight at a hotel in Ghevra involving Sumit (deceased). Upon reaching the spot, Sumit was found to be in a scuffle with accused persons. When the complainant tried to intervene, one accused person fired at him, injuring his hand and another shot the deceased Sumit in the chest. Another accused was also armed with a pistol. Sumit was rushed to Jaipur Golden Hospital, where



he was declared dead.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. At the outset, learned counsel for the applicant submits the applicant has been in judicial custody since 02.02.2018 and has thus undergone incarceration for a period of 07 years, 05 months, and 04 days.

4.1 Learned counsel for the applicant would further submit that the key eye-witness, Kudeyani Shah/ PW-1 (Dhaba owner), has turned hostile and did not depose anything incriminating against the Petitioner (Annexure-F). Moreover, another cited eye-witness, PW Sanjeet @ Malinga, was dropped from the list of witnesses on 10.05.2019 for not supporting the prosecution, which shows the falsity of the case (Annexure-G).

4.2 Learned counsel would also submit that the role attributed to the petitioner is that he allegedly caused the gunshot injury to the deceased. However, the scientific evidence in the form of the Ballistic Report demolishes the prosecution's case. The Forensic Science Laboratory, upon examination of the cartridge cases and deformed bullet recovered from the spot, has categorically opined that the cartridge cases marked as Exhibits *EC1* and *EC2* did not match the test-fired cartridge case (*TC1*) from the pistol allegedly recovered from the petitioner. Hence, they were not fired from the said weapon. Similarly, the deformed bullet marked as Exhibit *EB1* did not match the test-fired bullet (*TB1*) from the same weapon. Thus, it was not discharged through the pistol attributed to the petitioner.

4.3. The Ballistic Report therefore conclusively establishes that the firearm allegedly recovered from the petitioner is not the weapon of offence and that



the injury to the deceased was not caused by the petitioner. This makes it evident that the alleged recovery is planted and the prosecution case against the petitioner is false and concocted (Annexure H).

4.4 Learned counsel would further submit that Sajjan Kumar/ PW-4 gave contradictory versions in his examination and cross-examination, attributing firing and instigation to different persons, creating doubt about his credibility and proving him to be a planted witness. Furthermore, Rohit/ PW-6 wrongly identified the co-accused persons by confusing their identities, which raises serious doubt about his very presence at the spot and demolishes his credibility.

4.5. Likewise, Mohit/ PW-7 wrongly identified the petitioner as well as other co-accused persons, which not only renders his testimony unreliable but also establishes that he too is a planted witness. Moreover, Lalit Rana/ PW-21 and Pradeep Kumar/ PW-24 have also not supported the case of prosecution, thereby weakening the prosecution's case.

4.6 Learned counsel would further submit that Co-accused Deepak @ Bhola, Praveen @ Lala, and Vicky have already been granted regular bail, and the Petitioner is entitled to parity (Annexure H).

4.7 Learned counsel would also submit that the Petitioner was earlier granted interim bail for a period of 15 days *vide* order dated 14.08.2023 and further for a period of 10 days *vide* order dated 25.02.2025 which stood extended till 19.03.2025 *vide* order dated 07.03.2025.

4.8 Last interim bail was granted *vide* order dated 05.08.2025 for a period of one week. The learned counsel would further submit that the Applicant has complied with all conditions of bail, surrendered on time, and did not misuse liberty, showing he is not a flight risk.



4.9 Learned counsel would further submit that only 24 out of 43 prosecution witnesses have been examined. The trial is likely to take a long time, and there is no chance of petitioner influencing witnesses at this stage.

5. Opposing the above submissions, the learned APP for State would argue that the applicant is not entitled to any relief at this stage, as there remains a genuine risk of him absconding or tampering with the evidence.

6. Having heard the rival contentions, first and foremost, it be noted that the co-accused who participated in the crime as well as also present at the crime scene and have been attributed similar allegations of having the *mens rea* to commit a cold blooded murder, though the role attributed to the applicant is that he is the one who fired the gunshot, but regardless all of them allegedly went with a pre meditated mind. Other have been let out on bail by respective bail orders passed by the learned Trial Court.

7. As regards the applicant, the last bail application was dismissed as withdrawn *vide* order dated 29.04.2025 with liberty to file a fresh application before this Court after receipt of the ballistic report.

8. On a query put to the learned APP for State, as to whether the ballistic report has been received, she would respond in affirmative. On a further query, it transpires that the ballistic report does not match with the recovery of the fore arm which was recovered during the investigation.

9. It is though submitted on behalf of the applicant that the prosecution case is riddled with inconsistencies and false implications, as the key eyewitness PW-1 turned hostile and another cited eyewitness was dropped for not supporting the case, but same is matter of trial. The main allegation against the petitioner is that he fired the fatal gunshot; however, the Ballistic Report conclusively negates this claim by confirming that neither the



cartridge cases nor the bullet matched the pistol allegedly recovered from the petitioner, proving that it was not the weapon of offence and indicating a planted recovery. Furthermore, key prosecution witnesses, including PW-4, PW-6, and PW-7, have given contradictory statements or wrongly identified the accused, rendering their testimonies unreliable. Several other witnesses, such as PW-21 and PW-24, have also not supported the prosecution.

10. Be that as it may, as noted, the same is the matter of trial. Though learned counsel for the applicant would submit that in view of the ballistic report, the applicant is not likely to be declared guilty and thus it is a case of acquittal. However, this Court would refrain to make any observation on the same. Suffice that, at this stage, in light of the above, it is a fit case to grant of bail during pendency of the trial.

11. Even otherwise, the applicant has been in judicial custody since 02.02.2018 and has already undergone almost seven and half years of incarceration. Co-accused have already been granted regular bail, entitling the petitioner to parity. The petitioner has previously been granted interim bail on multiple occasions and has always complied with conditions, surrendered on time, and not misused the liberty, demonstrating that he is not a flight risk. With only 24 out of 43 witnesses examined and the trial likely to take considerable time, continued incarceration is unwarranted, especially when there is no likelihood of influencing witnesses at this stage.

12. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.



13. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

14. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 18, 2025/SV