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

+ **BAIL APPLN. 2117/2025**

AJAY ALIAS AJJU

.....Petitioner

Through: Mr.Aman Panwar, Mr.Abhinav
Kumar, Ms.Rishikachoudhary,
Advocates (DHLSC)

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms.Richa Dhawan, APP for State
with Inspector Sri Bhagwan, PS
Rajouri Garden.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

15.09.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 15.07.2019, i.e. more than 4 years and 6 months, in a criminal case arising out of FIR No. 269/2019 dated 14.07.2019 for the alleged offences punishable under Sections 34, 302, 376, 411 of the IPC, registered at Police Station Rajouri Garden, Delhi.

2. Succinctly speaking, the case as per the prosecution report is that in the intervening night of 13.07.2019-14.07.2019, the night patrolling staff found a vehicle bearing number DL-1RTC-1374 to be suspiciously parked, in which 4-5 males and a woman were found to be seated. On seeing the police team, the said persons started the car and attempted to flee. The police staff chased and intercepted the car, whereupon three boys and the girl



managed to escape, while two persons seated in the front seats were apprehended. They were taken to the police station and interrogated, during which they were identified as co-accused/Himanshu @ Billad.

2.1 On search of the car, a bag was recovered from inside. Two broken mobile phones were found on the dashboard, and one phone was recovered from the pant pocket of co-accused/Himanshu. During sustained interrogation, the accused disclosed that they, along with the applicant and co-accused persons (Avinash @ Kalu, Deepak @ Ballu, Karanand Muskan) had hatched a conspiracy to trap innocent persons by sending co-accused/Muskan into their vehicles, after which the others would follow and rob the victims at deserted locations. They further disclosed that on the same night they had robbed a person near Gas Godown, Shivaji Enclave, and upon resistance, had stabbed him.

2.2 The accused persons were taken to the place of occurrence, where a car bearing number DL-4CAW-0321 was found parked near the gas godown, with a male aged about 38-40 years lying unconscious in a pool of blood on the driver's seat. The spot was inspected by the FSL and the Crime Team. The injured was identified as the victim (Bhupender Birdi), who was declared dead. Investigation ensued.

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

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

4.1 That the applicant would argue that the learned Trial Court *vide* impugned order dated 11.11.2014 has erred in not appreciating the arguments addressed on behalf of the applicant. The entire case of the prosecution



relies on the statement of Ms. Shabnam, who unfortunately passed away and whose statement never underwent the test of cross-examination. Further, the testimony of witness Sunil Kumar suffers from contradictions at different stages, and PW-02 Ramesh has not supported the prosecution case. He would further contend that PW-02 is not a reliable witness, has given contradictory statements, and is merely a hearsay witness whose testimony cannot be read against the applicant. Moreover, the testimonies of PW-01 and PW-02 do not corroborate each other, and PW-02 appears to be a planted witness to falsely implicate the applicant. He would place reliance on ***Ashok Nagar v. State, Crl. Appeal No. 932/2009***, wherein it was held that where a witness makes inconsistent statements, his testimony becomes unreliable and unworthy of credence, and no conviction can be based on such evidence.

4.2 That the Forensic Examination Report has also not supported the prosecution version. Out of 7 exhibits, blood was found on 6, yet the report does not mention whose blood it was. Further, the alleged knife, shown to be recovered at the instance of the applicant from near Ganda Nala, Pankha Road, was clearly planted by the Investigating Officer, as no independent witness was joined in the recovery proceedings.

4.3 He would place reliance upon ***Union of India v. K.A. Najeeb (2021) 3 SCC 713***, wherein it has been held that liberty under Part III of the Constitution covers not only due procedure and fairness but also access to justice and speedy trial, and that undertrials cannot be indefinitely detained. Similarly, in ***Rai Sandeep @ Deepu v. State (2012) 8 SCC 21***, it has been laid down that evidence must be unimpeachable and of sterling quality, which is completely lacking in the present case. Furthermore, as held in



State of Haryana v. Shamsher Singh, 2001 (3) RCR (Criminal) 345, the prosecution carries the serious duty to bring quality evidence on record to secure conviction, which has not been done herein.

4.4 That the evidence of prosecution witnesses is riddled with contradictions, discrepancies, and improbabilities, and thus cannot sustain conviction. Hewould argue that the prosecution has failed to examine even the FSL team officials, who were material witnesses. Hewould further contend that the investigation has not been fair, and despite knowing that the applicant had no connection with the alleged offence, he was falsely implicated and made a scapegoat.

4.5 That there are glaring discrepancies in the prosecution story and prolonged judicial custody has rendered the applicant helpless in proving his innocence. Hewould urge that the investigation is already complete, and the applicant cannot tamper with evidence. He has been in continuous custody for 5 years and 10 months since his arrest on 15.07.2019. No adverse report has been made against him by the jail authorities, and he has been cooperating with the prosecution at all stages. He was even released under HPC during Covid-19 and did not misuse the liberty, with no other case pending against him.

4.6 That the trial is still pending for more than 4 years and is likely to take further long time. He would urge that keeping the applicant in custody serves no fruitful purpose and would only result in hardship to his family. The learned Trial Court failed to appreciate that no family member has ever deposed that the applicant is beyond their control, as wrongly noted in the impugned order dated 11.11.2024.

4.7 That the applicant is an innocent person made a scapegoat due to the



failure of the Investigating Agency to apprehend the real culprit. Hewould urge that the applicant has maintained good conduct in jail, is working as a Sahayak in Langar, and has never filed any similar petition earlier.

5. The learned APP for the State, opposing the application, submits that it is *sans* merit and the applicant is not entitled to bail at this stage. She would contend that the offence is heinous and the applicant, acting in conspiracy with co-accused persons, played an active role in its commission. She would further argue that since material witnesses are yet to be examined, there is a grave apprehension that the applicant may influence them or evade trial if released on bail.

6. Having heard, I am of the view that there may be some substance in some of the arguments addressed on merits by the learned counsel for the applicant but the same are a matter of trial. However, at this stage, in light thereof, it is otherwise a fit case for bail.

7. *Prima facie* the prosecution's case rests solely on the statement of PW-Ms. Shabnam, who passed away without her statement being tested by cross-examination. Other witnesses are argued to be unreliable i.e. Sunil Kumar gave contradictory statements, PW-02 Ramesh is a hearsay and stated to be planted witness, and their testimonies do not corroborate. The forensic report also fails to link the exhibits to the applicant, and the alleged recovery of the knife is planted as no independent witness was joined.

8. I have perused the status report dated 20.07.2025 and it so transpires that the role attributed to the applicant herein seems to be on a different footing *qua* his co-accused inasmuch as he is alleged to have participate with co-accused/Himanshu in searching the car in which the victim was travelling and since he resisted, accused/Deepak is alleged to have stabbed



him which resulted in his death.

9. Of course, the same is also a matter of trial but suffice at this stage that applicant cannot be attributed any intention to commit murder. If at all, it was the co-accused/Deepak who concededly stabbed the victim as prosecution's own version.

10. As already noted these observations are only for the purpose of granting bail as the same is to be finally adjudicated in course of trial at the appropriate stage.

11. At this stage, given that the applicant has already remained in custody for more than 4 years and 6 months. Investigation is over *qua* him as the charge sheet has been filed on 14.07.2019. The trial is moving at a snail's pace and further continued incarceration would cause undue hardship to the applicant's family and serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

12. As regards the apprehension of influencing or intimidating the witnesses and tampering with evidence, there is nothing on record to support such apprehension, rendering such apprehension illusory. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant has no criminal antecedents, poses no flight risk, and continued detention may amount to punishment before conviction, at this stage.

13. Moreover, the applicant has cooperated throughout the investigation, and there is nothing to suggest that he would abscond, interfere with evidence, or influence witnesses. Further, as per the nominal roll, the applicant was on interim bail from 21.08.2021 to 08.04.2023 during which



no misconduct was reported, thus, I am of the view that the applicant deserves concession of bail.

14. As an upshot and taking a wholesome view of the matter, I am of the view that it is a case of bail at this stage.

15. Thus, 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.

16. 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.

17. Accordingly, the bail application, alongwith pending application(s), if any, stands disposed of.

ARUN MONGA, J

SEPTEMBER 15, 2025/SV