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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2148/2025 & CRL.M.A. 17488/2025

HARI MOHAN

.....Applicant

Through: Mr. Shubham Yadav, Mr.
Mohit Mudgal, Mr. H.L.
Gandhi & Mr. Sandeep
Yadav, Advs.

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State.
Insp. Pradeep Sharma,
Insp. Surya Prakash & SI
Rajnikant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.08.2025

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 121/2019 dated 16.04.2019, registered at Police Station Kirti Nagar for offences punishable under Sections 394/397/302/34 of the Indian Penal Code, 1860 ('IPC') and Section 27 of the Arms Act, 1959.

2. The FIR was registered pursuant a statement given by ASI Naresh Pal Singh, following the incident dated 15.04.2019. It is alleged that when ASI Naresh Pal Singh alongwith ASI Sunil, HC Digvijay and Ct. Ashok, were checking vehicles near the underpass in Kirti Nagar Industrial Area, they heard the sound of a gunshot from the underpass, at around 8:30 pm. It is alleged that when the police officials reached the spot, they saw that a boy was shooting at a man, another boy was standing ready to

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flee with a motorcycle bearing No. DL8SAY3270 and two other boys were seen opening the trunk of a car bearing No. DL-4CNA-4039. It is alleged that two persons were lying injured on the road. It is alleged that upon seeing the police officials, the accused persons attempted to flee from there however, one boy with the motorcycle, namely– Saleem, was apprehended by the police.

3. It is alleged that the two injured persons were rushed to the Hospital, where one of them namely– Anand Aggarwal was declared brought dead by the doctor, while the other namely– Surjeet Singh @ Suraj was unconscious and declared unfit for statement.

4. During the investigation, it was found that accused Saleem, along with other accused persons, including the applicant herein, had attempted to loot the deceased Anand Aggarwal, who is stated to be a businessman, at gun point. It is alleged that in the boot of the car bearing No. DL-4CNA-4039, cash amounting to ₹1.80 crores was recovered. Four accused persons namely Saleem, Ajay Sharma, Deepak and the applicant herein, were arrested in the present case on 16.04.2019. It is alleged that the gun used in the crime was also recovered at the instance of the co-accused Ajay Sharma.

5. In the disclosure statement, all accused persons have stated that on the date of the alleged incident, they had come to Naraina Industrial Area and saw the deceased Anand Aggarwal keeping a bag of cash in his car. They stated that they followed the car of the deceased and over took the same, whereafter co-accused Ajay Sharma had fired at the deceased and his driver.



6. The Call Detailed Records ('CDR') of the mobile numbers of the accused persons reveal that their location, on the date of commission of the offence, was at the spot where the alleged incident took place and they were in contact with each other.

7. The chargesheet has been filed under Sections 302/307/397/394/393/34 of the IPC and Sections 25/27 of the Arms Act, 1959 against all the accused persons.

8. The bail applications preferred by the applicant before the learned Trial Court was dismissed by orders dated 10.04.2024 and 11.12.2024.

9. The applicant had, on an earlier occasion, filed an application seeking regular bail before this Court, being BAIL APPLN. No. 1641/2024, which was dismissed as withdrawn *vide* order dated 03.07.2024, granting liberty to the applicant to file afresh in case the trial does not conclude within a period of six months.

10. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and that he was not named as an accused in the FIR.

11. He submits that the applicant has not been identified by the prosecution witnesses.

12. He submits that the investigation is complete and nothing incriminating has been recovered from the possession of the applicant during the course of investigation.

13. He submits that the applicant has been in custody since 20.04.2019 and prolonged incarceration is causing severe hardships to his dependents as he is the sole bread earner of his family.



14. *Per contra*, the learned Additional Public Prosecutor ('APP') for the State vehemently opposes the grant of any relief to the applicant. He submits that the allegations against the applicant are serious in nature and witnesses are yet to be examined.

15. Heard the learned counsels and perused the record.

16. The Court, while considering such applications, has to keep certain factors in mind, such as: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

17. It has been held in a catena of judgments that while considering an application of the accused seeking bail, 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.

18. In the present case, the allegations against the applicant are that he along with the other co-accused persons, had conspired to loot the deceased Anand Aggarwal. The accused persons used fire arms in the process, which has resulted in the death of Anand Aggarwal and gunshot wounds caused to Surjeet, who was the driver of Anand Aggarwal. It is alleged that the present applicant was the main conspirator in the present case, and was constantly in contact with the other accused persons on the alleged date of incident, through his mobile phone number 9109676810. His mobile number was also found to be active at the location where



the alleged incident took.

19. As per the CDR, a total of 12 calls were found to be made between the mobile numbers of the applicant and the other accused persons on 15.04.2019 from 6:25 pm to 10:16 pm.

20. During the course of trial, the injured witness Surjeet has not been able to identify the applicant, however, the applicant was duly identified by the complainant-ASI Naresh Pal Singh as the boy who was opening the trunk of the car bearing No. DL-4CNA-4039. It is not denied that the complaint was filed at the instance of ASI Naresh Pal Singh, as he was present at the spot.

21. Co-accused namely–Saleem was apprehended at the spot, however the other accused persons, including the applicant herein, had flee from the spot.

22. At this juncture, in the opinion of this Court, the investigation conducted so far does not indicate that the applicant is sought to be falsely implicated. The material presented by the prosecution establishes a *prima facie* involvement of the applicant.

23. It is further pointed out by the learned APP for the State that the petitioner is a history sheeter involved in as many as 18 criminal cases, some of which are for offences punishable under Section 302 of the IPC as well as offences punishable under the provisions of the Arms Act, 1959.

24. As noted above, the applicant is involved in multiple criminal cases. The Hon'ble Apex Court in ***Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648*** has observed that the gravity of the alleged offence and the pendency of multiple criminal cases against the accused, though relevant considerations, cannot,



in isolation, constitute sufficient grounds for the denial of bail, provided the applicant has otherwise demonstrated sufficient grounds warranting the grant of such relief.

25. However, in the peculiar facts of the present case, the pendency of multiple criminal cases against the accused is a relevant factor to be taken into consideration. The Nominal Roll of the applicant reveals that the applicant has been previously convicted for the offences punishable under Section 411 of the IPC in FIR No. 434/2008 and under Section 365/392/397/411/120B of the IPC in FIR No. 333/2012. In addition thereto, there are sixteen other criminal cases registered against the applicant in different districts of Delhi, the earliest of which dates back to the year 2006. The conduct of the applicant indicates that, if released on bail, there exists a substantial likelihood of his involvement in the commission of similar offences.

26. The grant of bail should not be arbitrary or whimsical. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, albeit briefly, factors such as the *prima facie* case, the nature and severity of the crime, and the accused's likelihood to flee from justice, among other considerations as noted above.

27. Accordingly, taking into account the evidence available on record and the submissions made by the learned counsels for the parties, this Court is of the opinion that *prima facie*, there is cogent material on record at this stage to show the involvement of the applicant, and therefore, this Court is not inclined to grant bail to the applicant.



28. The learned APP for the State informs that out of 34 witnesses, 19 have been examined. Thus, in the opinion of this Court, the trial has been proceeding expeditiously, and at this stage it cannot be presumed that the trial will not conclude in a timely manner.

29. The applicant has been charged for the offence under Section 302 of the IPC for which the minimum punishment is upto life. The Hon'ble Apex Court, recently, in the case of **X v. State of Rajasthan & Anr. : 2024 INSC 909**, in a challenge to the order passed by the High Court of Rajasthan whereby the bail application filed by the accused was allowed, observed as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

30. While the applicant has spent close to six years in custody, however, it cannot be ignored that the material on record *prima*
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facie indicates his involvement in the present case. Furthermore, having regard to the applicant's antecedents, including his prior convictions and the pendency of multiple criminal cases, his overall conduct does not inspire confidence so as to justify any indulgence by way of leniency. For this reason, merely because the applicant has spent a substantial period in custody, the same alone cannot be a ground to grant bail to the applicant in the present case.

31. In view of the above, the present application is dismissed.

32. The learned Trial Court is directed to expedite the trial and conclude the examination of witnesses to ensure that justice is served in a timely manner.

33. It is made clear that the observations made in the present case are only for the purpose of deciding the present bail application 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 5, 2025