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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 2182/2025**  
**RAJESH JHA** .....Petitioner

Through: Mr. Suraj Prakash Sharma, Mr. Ajay  
Verma and Ms. Smriti S. Nair,  
Advocates.

versus

**THE STATE OF NCT OF DELHI** .....Respondent  
Through: Mr. Mukesh Kumar, APP.  
Inspector Chetan Singh, P.S. Khyala.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
% **11.09.2025**

1. The present application filed under Section 483 of the Bharatiya  
Nagarik Suraksha Sanhita, 2023<sup>1</sup> (formerly Section 439 of the Code of  
Criminal Procedure, 1973<sup>2</sup>) seeks regular bail in proceedings arising from  
FIR No. 236/2016 registered under Sections 341/452/324/34 of the Indian  
Penal Code, 1860<sup>3</sup> at P.S. Khyala.

2. The case of the prosecution in brief, is as follows:

2.1. The present FIR was registered based on a complaint lodged by Sonia  
Singh (Complainant), sister of the deceased (Deepak). In her complaint, she  
alleged that co-accused Uday Kumar ran a general store in their  
neighbourhood where unruly elements frequently gathered, causing nuisance

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C."



and disturbance. Whenever her family objected, quarrels would break out with the accused persons. A few days prior to the alleged incident, one such altercation took place when the Complainant and her brother got into an argument with the accused.

2.2. On 19<sup>th</sup> May, 2016, at about 10:00 PM, allegedly the Complainant's uncle (Manoj) was assaulted by accused Uday Kumar, his brother Pankaj, his cousin Rajesh (Applicant), and his friend Raju @ Kabadi. When the Complainant, accompanied by her mother (Vidya Devi) and uncle, confronted the accused at Uday's shop, they were subjected to verbal abuse. Hearing this commotion, Deepak came out of the house and objected to the same. At this point, the co-accused Uday, Pankaj, along with the Applicant allegedly caught hold of Deepak while co-accused Raju @ Kabadi stabbed him with a knife. Although Deepak managed to free himself and run inside the house, all four accused chased him inside and assaulted him again within the premises, before fleeing the spot. The Complainant called the police, and injured Deepak was rushed to hospital where his MLC was recorded. On the basis of the complaint and the MLC, the impugned FIR was registered against the Applicant and other co-accused under Section 341/324/452/34 of IPC.

2.3. During investigation, Deepak succumbed to his injuries due to which the offence of Section 302 of IPC was also invoked. A post-mortem examination of the deceased was conducted, wherein the doctor attributed the cause of death to hemorrhagic shock from stab injuries on both thighs caused by a pointed single-edged weapon, sufficient in the ordinary course of nature to cause death.

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<sup>3</sup> "IPC"



2.4. The Applicant, along with the other accused, was arrested and subsequently charge-sheeted under Sections 302/324/341/452/120-B/34 of IPC. On 15<sup>th</sup> February, 2020, charges were formally framed against the Applicant under Sections 302/341/452/34 IPC.

3. Counsel for Applicant raises the following grounds for bail:

3.1. The Applicant has been falsely implicated in the present case. It is urged that the allegations are exaggerated and unsupported by independent evidence, thereby casting serious doubt on the prosecution's version.

3.2. The chargesheet has already been filed and several material witnesses, including the alleged eye-witnesses PW-9 (Complainant) and PW-11 (deceased's mother), have been examined. In these circumstances, the apprehension of the Applicant influencing these witnesses, stands mitigated and continued incarceration would serve no purpose beyond being punitive.

3.3. The Applicant has been in custody since 24<sup>th</sup> May, 2016. Of the 48 witnesses cited by the prosecution, only 29 witnesses have been examined despite repeated directions of this Court for expeditious trial. Given this pace, the trial is likely to be long and protracted, and indefinite pre-trial detention of the Applicant is violative of his fundamental right to a speedy trial under Article 21 of the Constitution of India. Reliance is placed on the decisions in *State of Rajasthan v. Balchand*<sup>4</sup> and *Hussainara Khatoon v. State of Bihar*.<sup>5</sup>

3.4. The Applicant has consistently surrendered on time whenever released on interim bail. His past conduct demonstrates compliance with conditions imposed by the Court, thereby minimising the risk of flight.

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<sup>4</sup> (1977) 4 SCC 308.

<sup>5</sup> (1980) 1 SCC 81.



3.5. One of the primary grounds for denying bail earlier was the pendency of evidence of PW Manoj (deceased's uncle). However, on 5<sup>th</sup> October, 2024, the Trial Court itself dropped PW Manoj as untraceable. This constitutes a significant change in circumstance and removes a material ground for opposing bail.

3.6. The Applicant has been in custody since 2016, and this prolonged detention has adversely affected his physical and mental well-being. Excessive pre-trial incarceration has been expressly deprecated by the Supreme Court in *Shaheen Welfare Association v. Union of India*<sup>6</sup> and *Bhim Singh v. Union of India*.<sup>7</sup>

3.7. The Applicant has no criminal antecedents apart from the present case. There is no material to suggest that he poses a continuing threat to society or that he would commit any offence if released on bail.

3.8. The Petitioner is ready to abide by any such condition which this Court may imposed while enlarging him on bail.

4. *Per Contra*, Mr. Mukesh Kumar, APP for the State, opposes the bail application and submits the following:

4.1. The allegations against the Applicant are grave and serious in nature pertaining to an offence under Section 302 read with Section 34 of IPC.

4.2. The role of the Applicant, though attributed to restraining the deceased, cannot be considered lesser in degree as he has been charge-sheeted under Section 34 of IPC for sharing a common intention with the co-accused in the commission of the murder. Thus, individual roles stand merged in the principle of joint liability.

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<sup>6</sup> (1996) 2 SCC 616.

<sup>7</sup> (2015) 13 SCC 605.



4.3. Charges have already been framed against the Applicant under Sections 302/341/452/34 of IPC. Out of 48 witnesses cited by the prosecution, 29 witnesses have already been examined. Among them, two eye-witnesses, i.e. PW-9 (Complainant) and PW-11 (deceased's mother), have duly supported the prosecution's case, identifying the Applicant as one of the participants.

4.4. Given the heinous nature of the offence, there is a strong likelihood of the Applicant attempting to tamper with evidence, threaten the Complainant, or intimidate witnesses if released on bail. Since prosecution witnesses are still to be examined, his release at this stage would prejudice the fair conduct of the trial.

### **ANALYSIS**

5. The Court has considered the aforementioned facts and contentions. The Applicant was arrested on 24<sup>th</sup> May, 2016, and has remained in custody for more than six years. While it is true that the chargesheet has been filed and the investigation stands concluded, the mere completion of investigation does not, *ipso facto*, entitle the Applicant to bail, particularly in light of the gravity and heinous nature of the alleged offence. The Supreme Court, in ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***,<sup>8</sup> emphasised that bail is a discretionary relief, to be granted or denied based on the specific facts and circumstances of each case. The relevant extracts of the aforementioned judgment are as follows:

*"11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary*

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<sup>8</sup> 2023 INSC 761.



*from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:*

**11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.**

**11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.**

**11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.**

*11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail.”*

[Emphasis Supplied]

6. The Applicant is presently facing trial for a grave and serious offence. Although, as per the prosecution's case, the Applicant was not the assailant who inflicted the fatal stab injuries on the deceased, he stands charged under Section 34 of IPC in furtherance of a pre-arranged plan, with active participation in the commission of the offence. The prosecution case is not that the Applicant was merely restraining the deceased; rather, his role is alleged to be part of the common intention to cause the fatal assault, which necessarily attaches itself to the principal offence under Section 302 IPC. Therefore, notwithstanding the absence of a direct allegation of stabbing, the Applicant stands implicated for the offence of murder by virtue of the alleged common intention shared with the co-accused. The Supreme Court, while emphasizing the significance of the nature and gravity of the offence, has previously held that the seriousness of the allegations and the nature of the crime must weigh with the court and cogent reasons must be recorded if



bail is to be granted.<sup>9</sup>

7. In the present case, prosecution witnesses, including eyewitnesses PW-9 and PW-11, have deposed before the Trial Court and identified the Applicant as one of the assailants. Their testimonies, at this *prima facie* stage, corroborate the prosecution's case that the incident was pre-arranged, and that the Applicant had active involvement in the commission of the crime by restraining the deceased while stab injuries were inflicted on him. Although counsel for the Applicant has urged that there exists material contradictions in their testimonies, at the stage of bail, the Court is not required to undertake a detailed scrutiny of the evidence. Rather a *prima facie* view alone is sufficient for bail considerations. Therefore, given that the material eye-witnesses (PW-9 and PW-11) have identified the Applicant, a *prima facie* involvement of the Applicant in the alleged offence is made out. The sufficiency and reliability of their testimonies is an aspect to be adjudicated during the course of trial, and not at the present stage.

8. As regards the contention that the Applicant has undergone a long period of incarceration, it is observed that while prolonged custody may, in light of Article 21 of the Constitution, constitute a ground for bail, the right to personal liberty is not absolute and must be balanced against societal interests. It is well settled that the grant of bail cannot be determined solely on the basis of the duration of detention, but must also take into account the nature of the offence, the role attributed to the accused, and the overall facts and circumstances of the case. In this regard, the Supreme Court in ***Rajesh Ranjan Yadav @ Pappu Yadav v. CBI***<sup>10</sup> observed as follows:

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<sup>9</sup> (2023) 16 SCC 759.

<sup>10</sup> (2007) 1 SCC 70.



*“We are of the opinion that while it is true that Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time, the Court has also to take into consideration other facts and circumstances, such as the interest of the society.”*

9. In view of the above, notwithstanding the period of custody undergone, having regard to the totality of the circumstances on record, including the gravity of the charge, the progress of the trial, the stage of evidence, and the status of prosecution witnesses, this Court sees no reason to depart from established principles or to find exceptional circumstances justifying the grant of bail in this matter.

10. Accordingly, the bail application and all pending applications are dismissed.

11. It is clarified that any observations made in the present order are 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.

**SANJEEV NARULA, J**

**SEPTEMBER 11, 2025**

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