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

+ **BAIL APPLN. 2486/2025 & CRL.M.A. 19541/2025**

GAUTAM @ PEHALWAN

.....Applicant

Through: Mr. Ajay Kaushik and Mr.
Manjeet Singh, Advs.

versus

THE STATE NCT OF DELHI THROUGH

SHO P.S. KHYALA

.....Respondent

Through: Ms. Richa Dhawan, APP for
the State
Insp. Chetan Singh, PS
Khyala, Delhi
IO/Insp. Arvind Kr.
IO/Insp. Suresh Kr.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **19.08.2025**

1. The present application has been filed by the applicant seeking regular bail in FIR No. 565/2021 registered at Police Station khyala for the offences under Section 302/307/34 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27/54/59 of the Arms Act, 1959.
2. The brief facts are that on 25.06.2021 the police received information regarding a gunshot injury.
3. On reaching the hospital it was informed that, the deceased had suffered bullet injuries and was declared brought dead.
4. Thereafter, the statement of the eye-witness who was the brother of the deceased was recorded, wherein, he allegedly named three accused persons namely Babu, Sohail and Aamir out of the total seven accused persons.
5. Pursuant to the statement of the brother of the deceased the present FIR was registered.



6. It is alleged that during the course of investigation co-accused Aamir Khan @ Bhura was arrested on 26.06.2021. During his interrogation Aamir stated that the deceased had killed the uncle of co-accused Sohail and thereafter to take revenge he along with the other co-accused persons killed the deceased.

7. It is alleged that during the Police Custody Remand of co-accused Aamir, co-accused Mohd. Rafi was arrested on 28.06.2021, who during his interrogation stated that he financed the commission of the alleged offence.

8. It is alleged that on 02.07.2021, at the instance of co-accused Mohd. Rafi, co-accused Ajay was arrested who had allegedly provided the place where the accused persons stayed before the alleged incident.

9. It is alleged that on 13.07.2021, co-accused Ravinder and Manish @ Kaku were arrested, whereafter, one pistol with four live cartridges was recovered from co-accused Manish @ Kaku and one pistol with three live cartridges was recovered from co-accused Ravinder.

10. It is alleged that co-accused Ravinder, Sohail and Manish during their interrogation had disclosed the name of the present applicant. They stated that the applicant accompanied them and was actively involved in the commission of the alleged offence.

11. It is alleged that during the course of investigation the applicant was evading his arrest and had been absconding in the present case.

12. It is further alleged that on 21.02.2023 information was received by Police Station Khyala that the applicant had been arrested in FIR No. 42/2023 and had disclosed regarding his



involvement in the present case.

13. It is alleged that the applicant was arrested in the present case on 16.03.2023. During his interrogation he stated that he is involved alleged murder of the deceased, whereafter, his search was conducted, whereby, one single shot pistol along with 14 live cartridges was recovered from the applicant.

14. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He submits that there is no direct evidence against the applicant.

15. He submits that the applicant has been in custody since 16.03.2023 and the charges are yet to be framed. He submits that the trial is not likely to conclude in the near future.

16. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the present applicant.

17. She submits that the applicant is a habitual offender and has three more cases pending against him being FIR No. 666/2020 under Sections 302/392/396/397/460/120B/34 of the IPC and Sections 25/27 of the Arms Act, 1959, FIR No. 753/2022 under Sections 302/307/34 of the IPC and Sections 25/27 of the Arms Act, 1959 and FIR No. 42/2023 under Sections 25 of the Arms Act, 1959.

18. She submits that the applicant had been absconding for a period of 2 years before his arrest in the present case.

19. She consequently prays that the present application be dismissed as there is risk of threat due to the applicant belonging to the Sai gang.



20. I have heard the learned counsel for the parties and perused the record.

21. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

22. It is the case of the prosecution that the applicant was involved in the alleged incident which led to the death of the deceased.

23. It is argued that there is no direct evidence against the applicant and he has been implicated on the basis of disclosure of co-accused in the present case.

24. While the veracity of the case of the prosecution and the credibility of evidence will be tested during the course of the trial, at this stage, it cannot be ignored that the allegations against the applicant are serious in nature and he had also absconded from the proceedings for a period of two years. It is pertinent to note that the applicant had been arrested in the present case only after his arrest in another case.

25. It is pointed out that the applicant has three more cases pending against him being FIR No. 666/2020 under Sections 302/392/396/397/460/120B/34 of the IPC and Sections 25/27 of the Arms Act, 1959, FIR No. 753/2022 under Sections 302/307/34



of the IPC and Sections 25/27 of the Arms Act, 1959 and FIR No. 42/2023 under Sections 25 of the Arms Act, 1959.

26. Although it is stated that the applicant has been enlarged on bail in two of the aforesaid cases, it cannot be ignored that the involvements of the applicant relate to serious offences and it seems that he commits another offence after being granted liberty. The prosecution has also argued that the threat to the family of the deceased as well as the witnesses would be extremely high if the applicant is granted bail as he belongs to a gang.

27. It is pertinent to mention that while deciding the question of bail, the Court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence and its impact on society.

28. Undisputedly, the bail of the applicant cannot be rejected on the ground that he has been involved in multiple cases or on account of the gravity of the alleged offence, however, considering the nature of the applicant's antecedents as well as his prior conduct of evading arrest, in the opinion of this Court, the applicant is not entitled to the benefit of bail.

29. Accordingly, taking into account the submissions made by the learned counsel for the parties, and material available on record, this Court is of considered opinion that *prima facie*, there are serious allegations against the applicant which at this stage cannot be said to be without any material.

30. Although it is also argued that the trial is unlikely to conclude in the near future, in the present case, the offence



involved is Section 302 of the IPC, which is punishable for imprisonment for life or death.

31. One of the reasons for the delay in trial is stated to be the applicant absconding from arrest. Even so, considering that the FIR was registered in the year 2021, this Court considers it apposite to direct the learned Trial Court to expedite the framing of charges and recording of evidence.

32. In view of the aforesaid discussion, this Court is of the opinion, that no ground for the grant of regular bail has been made out by the applicant.

33. The present application is accordingly dismissed. Pending application(s) also stand disposed of.

34. 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 19, 2025