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

+ **BAIL APPLN. 2643/2025**

GAURAV

.....Petitioner

Through: Mr. Raja Choudhary, Mr. Kapil
Kumar Sharma and Mr. Dhruv
Tiwari, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

08.09.2025

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1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR No. 13/2023, registered at Police Station Delhi Cantt. Railway Station, Delhi, for offence under Sections 302/34 of the Indian Penal Code, 1860 (hereafter '*IPC*').
2. Briefly stated, facts of the present case are that on 01.05.2023, *vide* DD No. 32A, an information had been received at Police Station Delhi Cantt. Railway Station, regarding an incident at Bijwasan Station, whereupon, when the police officials had reached the said place, a person, namely, Md. Faizan (hereafter, "*deceased*") had been found injured. He was rushed to the DDU Hospital, where he was declared "brought dead". Thereafter, on 02.05.2023, at 03:17 am, the complainant had given his statement disclosing that on 01.05.2023, he, along with his brother, Om and



the deceased, had decided to play cricket at the playground near Bijwasan Station, and while they were passing through platform no. 1, five boys had started abusing and fighting with them. It is stated that the complainant and his brother had run in one direction, while the deceased had run towards the other side. It is stated that, after some time, when the complainant and Om had come back searching for the deceased, they had found a boy, later identified as the accused Manish, who had been caught hold of by the public. Thereafter, the said accused had revealed the names of his other friends. It is stated that all the said five boys had fought with the complainant, Om and had beaten the deceased. Based on these allegations, the present FIR was registered, and five accused persons were arrested.

3. The learned counsel appearing for the applicant argues that the applicant has been falsely implicated in the case, and his name has surfaced only in the charge sheet, without assigning any distinct role to him, unlike the co-accused; and thus, his case stands on a different footing. Moreover, it has been argued that the Test Identification Parade (TIP), as regards the applicant, had not been conducted, nor was any recovery made from the applicant during his custody. Furthermore, it was contended that the investigation *qua* the applicant stands completed at present, and the stage of trial being considerably advanced now, with the statements of the material prosecution witnesses having been recorded, the applicant's custody is no longer required. Thus, it is prayed that the applicant be granted bail.

4. The learned APP for the State, on the other hand, argues that the nature of the allegations in the present case is grave and heinous. Further, it is argued that the material witnesses, coupled with the post-mortem report, clearly support the prosecution's case. It is contended that the role of the



present applicant is also significant and he has been identified by the witnesses during the course of the trial. It is also pointed out that bail of co-accused Pawan Rohilla was dismissed by this Court on 16.04.2025. Thus, it is prayed that the bail application should be dismissed.

5. This Court has heard arguments addressed on behalf of the applicant and the State and has perused the material available on record.

6. At the outset, this Court finds that the allegations in the present case are serious and grave in nature. A perusal of the complaint/FIR as well as the statements of the witnesses during the course of trial reveals as to how the deceased had been beaten by the accused persons, resulting in his succumbing to the injuries on the same day. Further, the post-mortem report mentions that the death of the deceased was caused by blunt forceful impact upon head, possibly during assault by slapping, punching, which lends direct support to the prosecution's case. The question as to whether there had been any intention to commit murder or not, and arguments of the applicant that he is not known to the deceased remains a matter of trial.

7. This Court specifically notes that the material witnesses, PW-1 and PW-2, have identified the applicant herein during the course of the trial, which negates his contention that his implication is false and is an afterthought at this stage. Even otherwise, this Court finds that it has been the consistent case of the prosecution since inception, that about five accused persons were involved in the incident of beating the accused. The name of the applicant could not be revealed initially merely on account of it not being known to the complainant, which appears plausible in this Court's view; thus, the absence of any TIP as against the applicant does not *per se* weaken the prosecution's case. Moreover, given the present stage of the trial



and the fact that present applicant has been identified during the trial by PW-1 and PW-2, the said contention is unmerited.

8. Additionally, this Court notes that other material witnesses in the case are yet to be examined. In this regard, this Court finds it relevant to take note of the Hon'ble Supreme Court's observation in ***X v. State of Rajasthan: SLP(Crl.) 13378/2024*** that ordinarily, in offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining the witnesses, the Courts should be loath in entertaining bail applications of the accused.

9. Therefore, in view of the foregoing circumstances, this Court is not inclined to grant regular bail to the applicant at this stage.

10. Accordingly, the bail application stands dismissed.

11. It is, however, clarified that nothing stated herein shall tantamount to an expression of opinion on the merits of the case.

12. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

SEPTEMBER 08, 2025/A