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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 2874/2025, CRL.M.A. 22356/2025 &
CRL.M.A. 22357/2025

WASIM KHAN

.....Applicant

Through: Ms. Mirza Rizwan Baig &
Ms. Sophiya Salim, Advs.

versus

THE STATE OF NCT OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State
Inspector Vipin Kumar,
PS- Vasant Kunj (South)
Mr. Vineet Kumar Singh,
Adv. for complainant

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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18.11.2025

1. The present application is filed seeking regular bail in FIR No. 282/2018 dated 14.06.2018 for offences under Sections 307/34 of the Indian Penal Code, 1860 ('IPC') registered at Police Station Vasant Kunj (South).
2. Briefly stated, it is alleged that the applicant and other accused persons were throwing garbage in a ditch near the complainant's house. They were asked to stop by the complainant and the victim Danish (deceased), pursuant to which a verbal altercation happened, and thereafter scuffle took place between them. It is alleged that the applicant instructed his sons to bring the knives and, thereafter, the complainant and Danish were beaten by the accused persons. It is alleged that the applicant caught a hold of Danish from behind and his son,



Aamir Khan, inflicted stab injuries upon him. Danish succumbed to injuries during treatment. Chargesheet has been filed under Sections 302/307/34 of the IPC.

3. The learned counsel for the applicants submits that the applicant has been falsely implicated in the present case. He submits that there are various discrepancies in the statements of the witnesses, and the same ought not to be relied upon.

4. He submits that PW-1 in his testimony stated that he was the sole eye witness of the incident, however, PW-2 to the contrary has deposed that he was present at the spot and is an eye witness of the incident. Further, PW-1 in his examination, stated that the incident happened at 09:00 AM whereas PW-2, in his statement, stated that the incident took place at about 9:30 am.

5. He submits that there is a major disparity in the shape of the knife allegedly used to stab the deceased and the actual measurement of the injury.

6. He submits that the material witnesses have already been examined, and that no purpose would be served by keeping the applicants in further incarceration. He submits that co-accused Kasim Khan and Shahrukh Khan have already been enlarged on bail by this Court by order dated 24.07.2024 in BAIL APPLN. 1152/2024 and order dated 23.08.2024 in BAIL APPLN. 2298/2024 and prays that the applicant be admitted on bail on the ground of parity.

7. He submits that the applicant is languishing in jail for the last more than 4 years and 9 months, and prays that the applicants be enlarged on bail on account of the delay in trial.

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



applicants. He submits that the allegations against the applicants are serious in nature. He submits that specific allegations has been made against the applicant of holding the victim from behind while co- accused Amir Khan stabbed him. He submits that the applicant instigated co-accused persons to attack and stab the victim. He submits that the role of the applicant is much graver than the other accused persons who have been admitted on bail by this Court.

9. I have heard the counsel and perused the material on record.

10. The Hon'ble Apex Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (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.

11. 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.

12. 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 tamper with evidence, among other considerations as noted



above.

13. In the present case, the allegations against the applicant *prima facie* are serious in nature. It is the case of the prosecution that the applicant along with other co-accused persons is involved in the commission of the murder of Danish. The applicant is alleged to have instigated his sons, who are the other accused persons to bring knives and to beat and stab the complainant and the deceased. It is alleged that the applicant held the victim, Danish from behind and co-accused Aamir Khan stabbed him which consequently led to his demise.

14. The learned counsel for the applicant contends that the material witnesses have already been examined and that there exist certain discrepancies in their testimonies. He contends that the testimonies of PW-1 and PW-2 are inconsistent as to the question whether PW-2 was an eye witness of the incident. He further contends that the stab wound and the measurements of the knife allegedly used to stab the deceased do not match. The learned counsel for the applicants contends that the same casts a doubt in the story of the prosecution, the benefit of which should be afforded to the applicants.

15. It is pertinent to note that the Hon'ble Apex Court in several judgements has cautioned against delving into the question of credibility/reliability of the witnesses at the stage of grant of bail. From a perusal of the material on record, it is *prima facie* apparent that PW-1, who is the complainant and has himself suffered injuries has identified the applicant and supported the case of the prosecution. PW-1 has also disclosed the role of the applicant as being the person who grabbed the deceased from behind while co-accused stabbed him.



16. Whether such discrepancy as has been pointed out by the learned counsel for the applicant would be fatal to the case of the prosecution would be tested during the course of the trial and would be considered at the time of final arguments. The same cannot be made a ground to enlarge the applicants on bail at this stage.

17. Further, it is pointed out that PW-1 and PW-2 have given different times of occurrence of the incident in their examination. PW-1 stated that the incident took place at 9:00 AM, whereas PW-2 stated that the incident took place at about 9:30 am. I find no merit in this argument, the contradiction in the timings is not material and does not aid the case of the applicant.

18. Learned Counsel for the applicant contends that 2 of the co-accused have been admitted on bail by this Court and prays that the applicant be admitted on bail on grounds of parity. However, the role of the applicant is distinct from the other accused persons who have been admitted on bail. There are specific allegations against the applicant of holding the victim while co-accused Aamir Khan stabbed him. Aamir Khan is admittedly still in Judicial Custody. Thus, the applicant cannot be granted the benefit of parity.

19. Learned Counsel for the applicant further contends that the applicant has been languishing in custody for the last 4 years and 9 months, and that the trial is not likely to conclude in a timely manner.

20. While the applicant has spent a long period of time in custody, that is, 4 years and 9 months, however, considering the gravity of the offence and the manner in which the same is committed, this Court does not find any ground for releasing the



applicant on bail.

21. 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.

22. 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 applicants which at this stage cannot be said to be without any material.

23. Considering the facts and circumstances of this case, this Court is not inclined to grant bail to the applicants at this juncture.

24. 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.

25. In view of the above, the present bail application is dismissed.

AMIT MAHAJAN, J

NOVEMBER 18, 2025

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