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

+ **BAIL APPLN. 2873/2025**

ABHISHEK SAINI

.....Petitioner

Through: Mr. Kumar Manish, Mr. Ashutosh
Kumar Mishra, Mr. Pankaj Singh, Mr.
Kushagra Kumar, Advocates.

versus

THE STATE (GOVT. OF NCT DELHI)

.....Respondent

Through: Mr. Tarang Srivastav, APP.
Insp. Rakesh Dadwal, PS-Neb Sarai,
SI Abhishek Rana, PS-Dwarka South,
PSI Ajeet Sagar, PS-Dwarka South.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **18.09.2025**

1. This is an application, filed on behalf of applicant for grant of bail in case FIR No. 0352/2021 under Sections 302/34/120B IPC and Sections 25/27/54/59 Arms Act, registered at Police Station Dwarka South.
2. Learned counsel appearing for the applicant submits that applicant has been falsely implicated in the present case. He submits that only one shot was fired and as per the version of the prosecution that shot was fired by the main accused and not by the petitioner. He further states that prosecution is relying upon the CCTV footage of the hotel and the CCTV footage recovered from PW-10, Mr. Pramod Kumar, who is stated to be the complainant's neighbourer, but the Digital Video Recorders ["DVRs"] have



neither been seized nor forensically examined.

3. It is further submitted that PW-10, in his statement, states that CCTV camera was facing away from the house of the deceased, and therefore, applicant's presence at the spot cannot be established from the footage of PW-10's CCTV camera. According to the learned counsel, this fact has been noted by the learned Coordinate Bench also in its order dated 03.03.2025, while granting bail to the co-accused Lalit @ Piku.

4. With regard to the alleged recovery of knife, it is argued that no fingerprints were obtained from the knife and moreover, there is no allegation that the body of the deceased was bearing any knife injury marks. Knife is therefore not a weapon of offence.

5. As per the prosecution case, the applicant and the co-accused persons had hatched a conspiracy in Hotel Galaxy. It is alleged that entry register was signed by the applicant and the two accused persons. However, it is submitted that signatures in the entry register do not belong to the present applicant. Moreover, the presence of the applicant and the co-accused persons do not establish that the meeting was for the purpose of hatching conspiracy to commit murder.

6. It is also submitted that applicant and the co-accused persons have been acquitted in case FIR No. 351/2021 in relation to the robbery of the motorcycle, which was allegedly used by the applicant and the co-accused persons for escaping.

7. It is further submitted that co-accused Lalit @ Piku has since been granted bail by the Coordinate Bench of this Court vide order dated 03.03.2025, and therefore, applicant is also entitled for grant of bail on the ground of parity.



8. Learned APP appearing for the State, has argued on the lines of the status report. He submits that even though the DVRs have not been seized, secondary evidence can be led to prove the CCTV footage and PW-10 has already proved Section 65B certificate during the trial. According to him, footage of the CCTV camera of the scene of crime, reveals that all the three accused persons, including the present applicant, were seen approaching the DDA park at 12:30 AM and fleeing towards the same park at 12:33 AM. Additionally, the accused persons were captured in CCTV cameras installed at Hotel Royal Galaxy. The footage also shows all the accused persons at the hotel terrace until 12:00 hours, after which they left the hotel. It is submitted that applicant is not entitled for grant of bail on the ground of parity inasmuch as the knife has been recovered from the present applicant. It is further submitted that allegations *qua* the present applicant are grave and serious in nature, and therefore, he is not entitled for grant of bail.

9. As per allegations, a fight broke out on 26.07.2021 between families of complainant and his uncle, pursuant to which, co-accused Rajbeer (uncle's son), Lalit @ Piku and the present applicant murdered the complainant's father, Mr. Ajit Singh in the intervening night of 26/27.07/2021. After committing murder, all three of them, in an attempt to escape, robbed the motorcycle of a Zomato delivery boy, which was later recovered from the accused persons in another case bearing case FIR No. 351/2021 dated 27.07.2021, registered under Sections 392/411/34 IPC at Police Station Dwarka South, in relation to the robbery of the motorcycle.

10. Admittedly, the applicant, Mr. Abhishek Saini and other co-accused persons have been acquitted in case FIR No. 351/2021. It is also an admitted fact that DVRs in respect of CCTV footage have not been seized. Even



though, secondary evidence may be led for proving the CCTV footage and certificate under Section 65B of the Evidence Act is part of the judicial record, the question of admissibility of secondary evidence relating to the CCTV footage would be a matter of trial, however, it cannot be ignored at this stage that DVRs relating to the CCTV footage have not been recovered.

11. While deciding the bail application of the co-accused Lalit @ Piku, the Coordinate Bench has taken note that PW-10, Pramod Kumar, who has been examined to prove the CCTV footage of the spot, has stated that direction of the CCTV camera was not facing the house of the deceased but was facing opposite side, and therefore, that being so, the evidentiary value of such CCTV footage is required to be considered during the course of trial.

12. The prosecution's claim that entry register of the hotel bears signatures of the present applicant is to be tested during the trial.

13. As per the prosecution case and even as per the post mortem report, the cause of death was due to injury caused by firearm weapon. The post mortem report does not show any other injury on the person of the deceased. The role of causing firearm injury was attributed to Rajbeer. The only role attributed to the present applicant is that he was part of the conspiracy to murder the deceased and was present with the co-accused persons at the time of occurrence.

14. The applicant is stated to be in custody since last more than four years. Till date, only 17 witnesses out of 29 cited by the prosecution, have been examined, and therefore, there is remote possibility that trial is going to conclude in near future. All the public witnesses, except one witness, who has to prove Section 65B certificate of the CCTV footage taken from the Galaxy Hotel are already examined, and therefore, there is no likelihood of



threatening or intimidating the witnesses.

15. Admittedly, co-accused Lalit @ Piku has since been enlarged on bail. Thus, having considered the entirety of facts and circumstances, and in the light of submissions made, this Court is persuaded to grant regular bail to the applicant-Abhishek Saini, subject to the following conditions:-

- a. Applicant shall furnish a personal bond in the sum of Rs. 30,000/- with two sureties of the like amount to the satisfaction of the learned trial Court.
- b. Upon release, the applicant shall furnish his mobile number to the IO/SHO of Police Station Dwarka South and shall keep the mobile number operational at all times.
- c. The applicant shall surrender his passport, if any, with the trial Court, and shall not travel abroad without prior permission of the trial Court.
- d. The applicant shall not try to contact the prosecution witnesses or try to threaten or intimidate them and shall not indulge in any other criminal activity.
- e. The applicant shall furnish his residential address/contact details to the IO.

16. Nothing stated in this order shall construe as an expression of opinion on the merits of the case.

17. A copy of this order be sent to the Jail Superintendent for information.

18. This application accordingly stands disposed of in the aforesaid terms.

RAVINDER DUDEJA, J

SEPTEMBER 18, 2025/vd