



2025:DHC:4195



\$~7

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

% **Date of decision: 20.05.2025**

+ BAIL APPLN. 3013/2024

HONEY TYAGI @ NISHANT BHARDWAJ

.....Petitioner

Through: Ms. Avi Kalra, Mr. Prateek
Lakra, Mr. Devesh Chauhan,
Ms. Preetika Shukla, Advs.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP for
State with Insp. Sudhir Rathi,
PS NIA.
Mr. Akshay, Adv. for
Complainant.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. This is a Regular Bail Application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1908 filed on behalf of the Petitioner seeking grant of Regular Bail in FIR No. 359/2022 dated 07.05.2022 ('subject FIR') registered at the Police Station Narela Industrial Area, District North for the offences under Sections



2025:DHC:4195



302/34/120B/174 of the Indian Penal Code, 1860 (IPC).

BRIEF FACTS

2. The present case arises from an information received on the Police Helpline Number whereby it was informed that a person has been shot around the House No. 603 nearby Nehar, subsequent to which the Police officials went to the spot and found an injured person who was then taken to the MV Hospital and the injured was declared brought dead. The deceased was identified as Mr. Braham Parkash, Son of Mr. Silak Ram and father of Kapil Mann, resident of House No. 603, Khera Village. Accordingly, the subject FIR was registered under Section 302 of IPC on 07.05.2022.

3. The post mortem report indicated the cause of action as “*shock consequent upon rifled firearm injury and all injuries are antemortem in nature and caused by the projectile of a rifled firearm.*”.

4. During the course of investigation, the footage from a Public CCTV installed near the place of occurrence was perused wherein it could be seen that two male individuals on a motorcycle had come to the scene of the incident and the pillion rider got off the motorcycle and shot at the deceased from close range, multiple times and thereafter, both of them fled from the scene. Nine empty cartridges with three bullet leads and blood was found on earth by the investigating agency, amongst other things, and were seized through seizure memos. The investigation revealed the pillion rider to be one Pawan @ Pona and the rider to be Amit, both of them being the members of Neeraj Bawania gang.



2025:DHC:4195



5. As per the prosecution, the present matter is a case of gang rivalry and Pawan @ Poona, along with Amit, had telephonic instructions from Parvesh Mann, member of Neeraj Bawania gang, committed the murder of the deceased by firing several bullet shots from close range. The course of investigation revealed that deceased was the father of Kapil Mann, who was the member of the rival gang and there was previous enmity between them as Parvesh Mann was lodged in jail for committing the murder of brother of the deceased, Surya Prakash.

6. In the investigation, Pawan had disclosed that he had involved Amit and Dev of his village in the planning of murder and that they had went to Village Holambi to meet Honey Tyagi @ Nishant at a shop owned by Ankit, where the entire conspiracy to murder the deceased was hatched.

7. The chargesheet dated 05.08.2022 was filed against the accused persons namely Pawan @ Pona, Dev, Ankit, Amit @ Mittu and Parvesh Mann. Subsequently, the petitioner was made an accused in the supplementary chargesheet dated 12.02.2023 for the offences under Section 302/120B/34/174A of IPC and the role ascribed to him by the prosecution is that the petitioner is one of the main conspirators of the murder of the deceased who had also received instructions from Parvesh Mann from Jail and that the petitioner assisted the co-accused in navigating the house of son of the deceased Kapil Mann and the route of his village. Further, the petitioner is alleged to have transferred money to Pawan @ Poona and all the accused persons



2025:DHC:4195



Pawan, Amit, Dev, Honey Tyagi and Ankit were well connected with one another through mobile phones. Prosecution also alleges involvement of the Petitioner in the conspiracy to murder the deceased as he had visited his cousin Gaurav Tyagi, who is incarcerated in Jail alongside co-accused Parvesh Mann.

8. The Petitioner was absconding his arrest and was later declared a proclaimed offender. Whereafter, the Petitioner was arrested on 28.03.2023. The subject FIR is pending adjudication before the learned Additional Sessions Judge ('ASJ') – 04, North District Rohini Courts in SC/672/2022

9. During the course of the trial, the Petitioner had preferred two regular bail applications before the learned ASJ which came to be dismissed vide orders dated 17.11.2023 and 31.07.2024, respectively. Henceforth, the petitioner has moved the present application before this Court.

SUBMISSIONS OF THE PARTIES

10. Learned counsel for the petitioner submits that there are no eye witnesses in the present case and the prosecution has placed heavy reliance on the disclosure statements of the co-accused who merely name the petitioner as the conspirator, which alone is not sufficient to implicate the petitioner with the commission of crime.

11. Learned counsel submits that the transaction amount sent to Pawan, through his sister's bank account and alleged to have been utilized in the commission of crime is merely Rs. 9,000 and it is not a substantial sum of money and was given only as a friendly loan.



Furthermore, the prosecution tries to connect the petitioner with the co-accused through their mobile records, however, the fact that the petitioner and others were connected through mobile phone does not disclose commission of crime or that he was connected with anyone from the Jail, the petitioner was merely running his business at the shop.

12. He submits that the prosecution argues that the petitioner had visited his cousin Gaurav Tyagi, who is stated to be incarcerated alongside co-accused Parvesh, in Jail, however, the prosecution has failed to substantiate this bare assertion and has not placed any jail records to show petitioner's visitation to the Jail.

13. On parity, the learned counsel submits that the co-accused Ankit Tyagi was granted bail in the subject FIR *vide* order dated 13.03.2023 passed by this Court, thus, due to lack of evidence and involvement, the petitioner ought to be seen in the same light of facts and circumstances. Furthermore, the learned Trial Court *vide* order dated 18.05.2023 had granted bail to the co-accused Dev also.

14. The learned counsel for the Petitioner submits that the Petitioner is aged about 36 years old and has been incarcerated since March, 2023 and he has no previous criminal antecedents. He submits, the petitioner has been falsely implicated in the present case and is being wrongly arrayed as an accused in the crime. He further submits that the trial is likely to take considerable time in its conclusion as the charges are not even framed yet, therefore, the petitioner be enlarged on regular bail.



2025:DHC:4195



15. On the other hand, the learned APP strongly opposed the bail application by contending that the Charges levelled against the petitioner are serious in nature and he is a main conspirator of the crime.

16. He submits that this is a case of broad day light murder of a 62 year old man with 9 shots having been fired purely out of gang rivalry. Furthermore, he submits that there is connectivity with the Neeraj Bhawani gang as the accused persons are members of the same. The entire conspiracy, he submits, to murder the deceased was hatched by the petitioner with the co-accused persons and he had actively participated in the said conspiracy. Moreso, Pawan was the key member of the Neeraj Bawana gang.

17. Learned APP submits that the co-accused persons had went to Village Holambi to meet the Petitioner, where the entire conspiracy was planned out. Further, the accused Pawan had disclosed that the Petitioner had provided him money and the motorcycle as well as the weapon used in commission of the offence was recovered at the instance of accused Pawan.

18. He submits that the benefit of parity cannot be afforded to the petitioner as his role is graver and major in contrast to the co-accused Ankit Tyagi and Dev, enlarged on bail by this Court and the learned Trial Court respectively.

19. He strenuously submits that initially the Petitioner was absconding his arrest and was declared a proclaimed offender by the learned trial court on 15.03.2023 and was later on 28.03.2023, arrested



by the investigating agency. Therefore, in background of this factum alone, there is strong likelihood that the petitioner would jump his bail and given the gravity of offences levelled against him, the benefit of bail be not granted to him.

20. The learned counsel for the Complainant supports and adopts the arguments canvassed by the learned APP.

ANALYSIS AND FINDINGS

21. Having heard the learned counsel for the petitioner, the Complainant as well as the learned APP and perused the record. The present case appears to be of a murder arising out of a gang rivalry.

22. The role ascribed by the prosecution to the petitioner is of him being the main conspirator in the commission of the crime, that is, conspiracy of murder of one Braham Parkash which was hatched in the shop premises, though the owner of which was co-accused Ankit Tyagi but the petitioner runs a broadband and a cable TV business from the said premises and which Ankit Tyagi had let out to the petitioner. Also, the conspiracy was hatched on instructions received telephonically from Parvesh Mann, incarcerated in jail.

23. During the investigation, on the asking of the Investigation Officer (IO), the jail authorities had recovered two mobile phones from Pavesh Mann. The shooting incident causing the murder of Braham Parkash was executed by co-accused Pawan, who is the key member of Neeraj Bawania gang. The petitioner had financially aided the co-accused Pawan by transferring Rs.9,000/- in the bank account of his sister.



24. The learned counsel on behalf of the petitioner rebutted the said fact and submitted that the amount is meagre and the co-accused Pawan and the petitioner are childhood friends, therefore, no suspicious can be raised with respect to the said transfer of money, which was casually made keeping in view their long friendship. However, the said submission of the learned counsel for the petitioner can be tested during trial. Moreso, the prosecution has relied upon the Call Detail Records to establish connectivity of the petitioner with the co-accused. Importantly, the mobile phone of the petitioner could not be recovered from him. Undoubtedly, the contents of the calls made are not known, however, the evidence is yet to commence before the learned Trial Court and the prosecution has to prove its case during trial.

25. Apart from the role ascribed by the prosecution to the petitioner as stated hereinabove, the petitioner was an absconder after having been declared proclaimed offender, the investigating agency was able to finally arrest him on 28.03.2023, thus, there is a strong likelihood of him being a flight risk if the benefit of bail is awarded to him.

26. The learned counsel for the petitioner had claimed parity with co-accused Ankit Tyagi and Dev, who have been enlarged on bail by this Court and the learned Trial Court, respectively. However, the benefit of parity cannot be afforded to the petitioner as the petitioner has a major role in contrast to the said two co-accused persons. The co-accused Ankit Tyagi was granted bail as no allegation was found against him that he was present at any meeting when the conspiracy



2025:DHC:4195



was hatched, since he had let out the shop, where the conspiracy was hatched, to the present co-accused, coupled with the fact that the petitioner was declared a proclaimed offender and could be arrested subsequently by police. The evidence of the material witnesses are yet to be recorded before the learned Trial Court.

27. Thus, in totality of the circumstances, no case is made out for grant of bail in favour of the petitioner. The bail application is dismissed, along with the pending application, if any.

28. It is clarified that the observations made herein are solely for the purpose of deciding the present bail application and shall not influence the merits of the trial proceedings in any manner.

29. Needless to state, if there is a material change in the circumstances surrounding the case, the petitioner is at liberty to move a successive bail application.

SHALINDER KAUR, J

MAY 20, 2025/SU/KM

Click here to check corrigendum, if any