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

+ **BAIL APPLN. 2929/2025**

PANKAJ @ VICKY

.....Petitioner

Through: Mr.Samarth Krishan Luthra,
Advocate (DHCLSC)

versus

STATE OF N.C.T. OF DELHI

.....Respondent

Through: Ms.Richa Dhawan, APP for the State
alongwith Insp. Rajesh Verma, P.S.-
Narela

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER
10.10.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 18.02.2018 i.e. for approximately 7 years and 8 months, in a criminal case arising out of FIR No.86/2018 dated 06.02.2018 for alleged offences under Sections 307/34 of IPC and under Sections 25/27 of Arms Act, 1959, registered at Police Station Narela Industrial Area.

2. Per FIR, on 05.02.2018, the complainant, along with his friends Sunil, Amit, Ramesh, and others, had gone to attend a wedding ceremony at Village Lampur, Narela, Delhi. During the evening, a minor verbal dispute occurred with the accused persons, who were travelling in a Santro car, over giving way to their vehicle. The accused persons left the spot after



threatening to “teach them a lesson.”

2.1 Later, when the complainant and his friends reached the wedding venue with other attendees, the accused persons returned. They stopped their car a short distance from the gate. Two of them, armed with pistol-like weapons, got down and started assaulting Amit, one of the complainant’s friends. The remaining two stayed in the vehicle with the engine running. When the complainant and others tried to intervene, the assailants fired in the air, and one of them shot Sunil (the deceased). All four accused then fled in their vehicle, leading to the registration of the present FIR.

2.2 Upon receiving information about the incident, it was found that the injured person had already been taken to SRHC Hospital by his friends. During treatment, the victim succumbed to his injuries, following which Section 302 IPC was added. During investigation, the vehicle used in the offence was traced, and after sustained efforts, two accused persons i.e. Pradeep Kumar and Pankaj @ Vicky (the present applicant) were arrested on 18.02.2018 and remanded to judicial custody. Subsequently, another co-accused, Pradeep @ Golu, was apprehended on 12.04.2018, and from his possession, one pistol and one country-made firearm (“desi katta”) were recovered.

3. I have heard the rival submissions and perused the case file.

4. The learned counsel for the applicant contends that the applicant is entitled to regular bail, having already undergone approximately 7 years and 8 months in judicial custody. Further detention, he submits, would serve no purpose and would amount to pre-trial punishment, violating the applicant’s fundamental right to life and personal liberty. It is argued that the applicant’s role is clearly distinct from that of the co-accused. He was merely present in



the Santro car and did not participate in, instigate, or support any act of violence. No firearm or incriminating material was recovered from him, and the prosecution's case primarily relies on the statement of PW-6, Vijay Kalkal, who has not attributed any overt act to the applicant. Mere presence without participation, it is submitted, does not satisfy the ingredients of Section 34 IPC.

4.1 In support, learned counsel relies on ***Ramesh Singh @ Photti v. State of A.P. (2004) 11 SCC 305*** and ***Vijay Pandurang Thakre v. State of Maharashtra (2007) 2 SCC 559***, wherein the Supreme Court held that mere presence at the scene without active participation cannot attract Section 34 IPC. He also refers to ***Vikram Jugdish Shete v. State of Maharashtra (S.L.P. No. 10003/2024)***, where bail was granted when no overt acts were attributed to the accused. Additionally, reliance is placed on ***Satender Kumar Antil v. CBI (2022) 10 SCC 51*** and ***Union of India v. K.A. Najeeb (2021) 3 SCC 713***, which affirm that prolonged pre-trial detention must be weighed against the right to personal liberty, particularly when trial delays persist.

4.2 The applicant is ready to fully cooperate with the trial and undertakes to comply with all conditions imposed by this Court, including furnishing a reasonable surety.

4.3 Counsel further argues that the applicant has been falsely implicated; he is not named in the FIR, no recovery has been made from him, and there is no evidence of his knowledge or intent to commit the offence. Most key public witnesses have already been examined, ruling out any risk of tampering with evidence or threatening witnesses.



4.4 Counsel further submits that prolonged judicial custody has hindered the applicant's ability to effectively prepare his defence. Reliance is placed on ***Bhagirath Singh Indeja v. State of Gujarat AIR 1984 SC 372***, where the Supreme Court held that pre-trial punishment is impermissible, and bail should not be denied unless there is a clear risk of tampering with evidence or absconding. The principles of presumption of innocence and prohibition of punishment prior to conviction also favour the grant of bail.

5. The learned APP for the State opposes the bail application, contending that it lacks merit. It is argued that there exists a genuine risk of the applicant absconding or influencing the eyewitness if released on bail. Given the serious nature of the offence and the direct, credible testimony of the eyewitness implicating the applicant, the State submits that the present application deserves dismissal.

6. Having heard both sides and upon perusal of the record, I am of the view that the case in hand warrants the grant of bail.

7. *Prima facie*, it transpires that the role attributed to the applicant is that of being a companion driver of the prime accused when the incident took place. The fatal gunshot was infact fired by the co-accused/ Pradeep @ Golu and not by the applicant and nothing incriminating has been recovered from his possession.

8. Aside above, the prosecution's case *qua* applicant rests solely on the statement of an eye-witness which is yet to be recorded and the statement of the complainant who alleges that the applicant "instigated" other co-accused persons. However, the same is not corroborated by any other independent witness or CCTV footage or any other material evidence on record. The



complainant himself was seated inside the car when the fatal gunshot was fired by another accused.

9. These aspects, though being matters for trial, but are being noted as in view thereof the applicant deserves bail at this stage.

10. Moreover, the applicant has been in continuous custody since 18.02.2018, over 7 years and 8 months. The investigation is complete, and the charge sheet has been filed. Hence, further custodial interrogation is unnecessary.

11. Out of 31 prosecution witnesses, only 13 have been examined so far. Considering the slow pace of the trial and the lengthy incarceration already undergone, further detention would cause undue hardship and serve no useful purpose. The trial is unlikely to conclude soon. The settled principle that is “bail is the rule and jail is the exception” must, therefore, apply.

12. The applicant, approximately 35 years of age, has no prior criminal antecedents. He resides with his mother and is the sole earning member of the family, demonstrating deep roots in society and no likelihood of absconding.

13. As to the apprehension of tampering with evidence, there is nothing on record to substantiate such a risk, since the material evidence has already been seized. Concerns regarding influencing the eyewitness Amit, whose testimony is pending, can be addressed by imposing specific conditions restraining the applicant from contacting or approaching the said witness or visiting Rohtak, where the witness resides, during the pendency of the trial. Accordingly, the Trial Court/Duty Judge shall obtain a specific undertaking from the applicant to this effect while accepting bail bonds.



14. The applicant is thus directed to be released on bail upon furnishing a personal bond with one solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned, subject to the usual conditions imposed by the Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

OCTOBER 10, 2025
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