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

+ **BAIL APPLN. 3389/2024**

RINKU RATHI

.....Petitioner

Through: Mr. Faraz Maqbool Mr. Sahitya
Verma and Ms. Deepshikha,
Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP.
SI Jeetendra, PS: Jahangir Puri.
Insp. Rajesh, MACT/ Shahdra.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.08.2025

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1. The present petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 439 of the Code of Criminal Procedure, 1973¹) seeks regular bail in proceedings emanating from FIR No. 102/2021 registered under Section 302 of the Indian Penal Code, 1860² at P.S. Jahangir Puri. Subsequently, a chargesheet has been filed under Sections 398/302/201/34 of IPC.

2. Briefly, the case of the prosecution is as follows:

2.1. On 9th February, 2021, a PCR call was received at P.S. Jahangir Puri, recorded *vide* DD No. 76A, wherein the caller informed that an injured

¹ "Cr.P.C"

² "IPC"



person was lying at C-Block, Tinku Dhaba, Jahangir Puri, and required assistance. Acting upon the call, ASI Jugender Singh reached the spot, where a blood-stained black slipper was found on the road. At the scene, an unconscious male individual with visible bleeding from the chest was discovered. He was taken to BJRM Hospital in a PCR van. The MLC No. 170040/21 recorded that the person had been brought in an unconscious state by PCR and was declared dead at 7:40 PM. It further noted that the deceased had sustained two sharp object injuries on the chest, caused by a sharp-edged weapon. The deceased's body was preserved in the mortuary of BJRM Hospital. During investigation, the deceased was identified as Santosh, s/o Prabhu Nath Shah. His brother was called to the hospital, where he identified and claimed the body. Based on these facts, the present FIR under Section 302 IPC was registered.

2.2. On 11th February, 2021, statement of one Rohit, an alleged eyewitness was recorded under Section 161 of Cr.P.C. He disclosed that he is a drug addict and on 9th February, 2021, while returning after purchasing medicine, he observed four individuals, Rinku Rathi (the Applicant), Anuj @ Bhola, Sahil @ Bobo and Kale near K-Block School. All were known to him as fellow drug addicts. He stated that they had accosted a man wearing a muffler and a black jacket, attempted to search his pockets, and demanded money. When the victim resisted, the Applicant, Sahil and another unidentified individual restrained him while Anuj, on being prompted, pulled out a knife from his trousers and stabbed the man twice in the chest, causing profuse bleeding. Thereafter, the group attempted to rob him before fleeing. The victim tried to make his way to BJRM Hospital but collapsed *en route*. Rohit, fearing repercussions, fled the scene.



2.3. Acting on this information, Anuj and the Applicant were apprehended on 11th February, 2021, and the CCL Sahil was also detained. Eyewitness Rohit identified them. The Applicant's statement was recorded, wherein he confessed to having held the victim while Anuj stabbed him, in order to procure money to sustain his addiction. Anuj's statement was also recorded, wherein he confessed to having stabbed the victim and pursuant to his disclosure, a knife and the jacket worn by him at the time of the incident were recovered from his residence. Consequently, offences under Sections 398, 201 and 34 IPC were also invoked.

2.4. The post-mortem report was obtained, which stated: "*Cause of death is shock and haemorrhagic shock consequent upon injury to the lung caused by a single sharp-edged cutting weapon. All injuries are ante-mortem and recent in duration. Injury No. 1 is sufficient to cause death in the ordinary course of nature. Viscera have been preserved to rule out intoxication/poisoning.*"

3. At the outset, Mr. Faraz Maqbool, counsel for the Applicant clarifies that inadvertently it has been stated that the Applicant had no criminal antecedents. He submits that the Applicant does have criminal antecedents and regrets the lapse in not disclosing the same at the outset.

4. Having clarified the above, Mr. Maqbool advances the following submissions in support of the present application:

4.1. The Applicant has remained in judicial custody since 28th February, 2021. The investigation stands concluded, the chargesheet has been filed, and the examination of all public witnesses has been completed. Hence, further incarceration would serve no useful purpose.

4.2. The prosecution's case primarily hinges on the testimony of a single



eyewitness, Rohit, who has since deceased. In the absence of his account, the prosecution's case is rendered unsustainable, as there is no other direct or circumstantial evidence against the Applicant other than disclosure statements. Further, the alleged recovery of the knife was effected at the instance of the co-accused Anuj, and no recovery has been made from, or pursuant to, the disclosure of the present Applicant.

4.3. The other co-accused in the present FIR, namely Anuj @ Bhola, who is alleged to have inflicted the stab injury on the victim, has already been granted bail by this Court by order dated 15th July, 2025. Therefore, the Applicant, who allegedly only held the victim at the time of the incident, ought to be released on bail on the principles of parity.

4.4. Although the Applicant does have criminal antecedents, the same, by itself, cannot form the sole ground for denial of bail.

5. On the other hand, Mr. Mukesh Kumar, APP for State, opposes the bail application and submits as follows:

5.1. The post-mortem report records the cause of death as shock and haemorrhagic shock resulting from an injury to the lung inflicted by a single sharp-edged cutting weapon. All injuries were ante-mortem and recent in nature.

5.2. The Applicant has a history of criminal conduct, having been involved in three prior cases of theft. Therefore, there exists a likelihood of his indulging in similar offences if released on bail.

5.3. The Applicant's previous request for bail has been denied by order dated 17th October, 2023 passed by Special Judge (NDPS), North, Rohini Courts, Delhi.

5.4. The Applicant is involved in a grave and serious offence. Considering



his prior criminal antecedents, there exists a significant apprehension that, if released on bail, he may abscond or otherwise evade the due process of law.

6. The Court has considered the afore-noted facts and contentions. The prosecution's case primarily rests on the testimony of the eyewitness, Rohit. However, said witness has deceased and by virtue of an order dated 15th November, 2022 passed by the Trial Court, has been dropped from the list of witnesses.

7. In the absence of the testimony of the deceased eye-witness, the material on record, at this stage, does not, *prima facie*, indicate the involvement of the Applicant in the incident. The alleged recovery of the knife is at the instance of the co-accused, and not the Applicant. Moreover, the FSL report does not reveal any blood or DNA traces on the said weapon so as to connect it with the offence. Thus, at this stage, there is no scientific or forensic evidence directly linking the Applicant to the crime.

8. As regards the Applicant's implication in other criminal cases, it is pertinent to note that the Supreme Court in ***Prabhakar Tiwari v State of U.P.***,³ has held that the mere pendency of multiple criminal cases against an accused cannot, by itself, be a valid ground for denial of bail.

9. It is further pertinent that the co-accused, who is alleged to have inflicted the stab injury, has already been admitted to bail by this Court *vide* order dated 15th July, 2025. In contrast, the role attributed to the present Applicant is confined to having allegedly restrained the victim. In such circumstances, the principle of parity also weighs in favour of the Applicant.

10. In light of the foregoing, the Court, on a *prima facie* view, is inclined to enlarge the Applicant on bail.



11. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM/Jail Superintendent, on the following conditions:

- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- c. The Applicant shall appear before the Trial Court as and when directed;
- d. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
- f. The Applicant shall report to the concerned PS on the first Monday of every month.

12. In the event of there being any FIR/DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application 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.

³ (2020) 11 SCC 648



14. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

AUGUST 20, 2025

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