



\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

BAIL APPLN. 3401/2024

LALIT @ PIKU

.....Petitioner

Through: Mr. Shiv Chopra, Mr. Shravan Pandey, Ms. Surbhi Arora, Mr. Siddharth Arora and Mr. Dhananjay Parth, Advocates.

versus

STATE OF GNCT OF DELHI & ANR.

.....Respondents

Through: Ms. Manjeet Arya, APP for the State.
Mr. Himanshu Singh, Advocate *via*
video-conferencing for complainant.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

03.03.2025

%

By way of the present petition filed under section 483 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No. 0352/2021 dated 27.07.2021 registered under sections 302/34 of the Indian Penal Code, 1860 ('IPC') and sections 25/27/54/59 of the Arms Act, 1959 at P.S. Dwarka South, Delhi. Consequent upon completion of investigation, an allegation of the offence under section 120B IPC has also been added *vide* chargesheet dated 22.10.2021.

2. Notice on this petition was issued on 20.09.2024; pursuant to which Status Report dated 16.10.2024 has been filed on behalf of the State.
3. Nominal Roll dated 04.10.2024 has also been received from the concerned Jail Superintendent.



4. In line with the mandate of the Supreme Court in ***Jagjeet Singh & Ors. vs. Ashish Mishra @ Monu & Anr.***,¹, the next-of-kin of the deceased was intimated about the pendency of the present proceedings; and is being represented by counsel.
5. The court has heard Mr. Shiv Chopra, learned counsel appearing on behalf of the petitioner; Ms. Manjeet Arya, learned APP for the State; as well as Mr. Himanshu Singh, learned counsel appearing for the next-of-kin of the deceased, at length.
6. Briefly, the genesis of the matter is a fight that broke-out on 26.07.2021 between the families of the complainant and his uncle, pursuant to which the uncle's son (accused No. 1) and his 02 friends murdered the complainant's father - Ajit Singh - on the intervening night of 26/27.07.2021. It the prosecution case that after murdering the deceased, the accused persons attempted to leave Delhi by robbing a motorcycle from a Zomato delivery boy, which motorcycle was recovered from the accused persons; and another case bearing FIR No. 351/2021 dated 27.07.2021 was also registered under sections 392/411/34 IPC at P.S. Dwarka South, Delhi in relation to the robbery of the motorcycle.
7. Mr. Chopra has premised the petitioner's bail plea on the following 05 principal grounds :
 - 7.1. *First*, learned counsel argues that the petitioner (accused No. 3) has been falsely implicated in the matter only on the basis of the disclosure statement of accused No. 1 and there is no other

¹ (2022) 9 SCC 321 at paras 22 & 23



material on record that could be said to be incriminating of the petitioner. In this regard, Mr. Chopra had emphasised that it is the complainant's case that only accused Nos. 1 and 2 participated in the quarrel which took place on 26.07.2021 but the petitioner was not present at the spot. Furthermore, counsel submits, that though a pistol, 02 live cartridges and a knife are alleged to have been recovered from accused Nos. 1 and 2, no recovery has been made from the present petitioner;

- 7.2. *Second*, Mr. Chopra submits, that the prosecution has sought to establish the 'meeting of minds' as between the petitioner and the 02 other co-accused persons alleging that all the 03 accused persons had met at one Galaxy Hotel, where they hatched the conspiracy to murder the complainant's father. In this regard, the prosecution has relied on the Entry Register of the hotel. It is pointed-out however that the said register only shows the signatures of accused Nos. 1 and 2 but not of the petitioner/accused No. 3;
- 7.3. *Third*, learned counsel argues that the petitioner's presence at the hotel and at the scene of the crime has been sought to be established based on certain CCTV footage of the hotel, and the CCTV footage recovered from PW-10, one Pramod Kumar, who is stated to be the complainant's neighbour. However, it is argued that the CCTV footage from both sources are inadmissible in evidence, since the original DVRs have neither been seized nor forensically examined. It is also pointed-out in his statement recorded on 22.04.2024, PW-10 says that his



CCTV camera was facing away from the house of the deceased; and therefore, the petitioner's presence at the spot in any case cannot be established from the footage of PW-10's CCTV camera;

- 7.4. *Fourth*, it is submitted that during the pendency of the present matter, *vide* judgment dated 18.05.2023 passed by the learned Metropolitan Magistrate, Dwarka, Delhi all accused persons in case FIR No. 351/2021 have been acquitted in relation to the robbery of the motorcycle, which motorcycle is alleged to have been used in the present case; and
- 7.5. *Fifth*, Mr. Chopra submits, that the petitioner has been in judicial custody for more than 3½ year as an undertrial; and in the meantime chargesheet has been filed and all 13 public witnesses of the total 29 prosecution witnesses have already been examined.
8. In the circumstances, counsel argues that the petitioner deserves to be admitted to regular bail.
9. On the other hand, Ms. Manjeet Arya, learned APP has opposed the grant of bail to the petitioner, by arguing that the presence of the petitioner at the Galaxy Hotel is established from the CCTV footage, which footage shows the petitioner conversing with the 02 other co-accused persons and then leaving the hotel with them, sometime before the victim was murdered. Ms. Arya submits, that there is also evidence that places the petitioner at the scene of the crime; and the CCTV footage of the spot also shows the petitioner running away from the victim's house shortly after the victim was murdered.



Furthermore, it is argued that admissibility of the CCTV footage cited by the prosecution is a matter of trial and cannot be relevant at this stage.

10. Upon an overall conspectus of the facts and circumstances of the case, the following considerations weigh with the court *at this stage* :

10.1. One of the material basis of the prosecution case against the petitioner is that the petitioner, along with other co-accused persons, had robbed a motorcycle from a Zomato delivery boy, which robbery was subject matter of case FIR No. 351/2021; that the said motorcycle was used by the accused persons to escape after committing the gruesome murder; and that the said motorcycle was subsequently recovered from the 03 accused persons. However, as pointed-out by Mr. Chopra, *vide* judgment dated 05.10.2021 passed by the learned Magistrate, all 03 accused persons have been acquitted in case FIR No. 351/2021, a copy of which judgement has been placed on record by the petitioner along with the additional documents filed by him.

10.2. The prosecution further alleges that the petitioner along with the 02 co-accused persons can be seen running away from the scene of the crime in the CCTV footage of the spot. However, it has been pointed-out by Mr. Chopra that the original DVR in respect of this CCTV footage has admittedly not been seized and therefore it has not been forensically examined either. Though the question of admissibility of secondary evidence relating to the CCTV footage is a matter of trial, it cannot be



ignored that the DVR relating to the said footage is not available;

- 10.3. Also, in the course of his cross-examination conducted on 22.04.2024, PW-10/Pramod Kumar, who has been examined to prove the CCTV footage of the spot has said that the direction of the camera was not facing the house of the deceased but was facing the opposite side. The evidentiary value of such CCTV footage is also therefore required to be established by the prosecution in the course of trial;
- 10.4. Furthermore, the prosecution is seeking to establish the 'meeting of the minds' as between the accused persons by alleging that all 03 of them met at Galaxy Hotel; but the Entry Register of the hotel bears the signatures of only 02 accused persons and the petitioner is not one of them;
- 10.5. The record also shows that the petitioner has been ascribed a role in relation to the offence based on the disclosure statement of accused No. 1/Rajvir @ Raju but no recovery of any sort has been made from the petitioner; and
- 10.6. The court is also informed that only 13 of the 29 witnesses cited by the prosecution have so far deposed in court, which includes all public witnesses; and that therefore, trial in the matter will take a long time to conclude. In the meantime however, as can be seen from his nominal roll, the petitioner has already suffered judicial custody of more than 3½ years as an undertrial, that his jail conduct is 'satisfactory', and he has had no other criminal involvements. It is also noticed that the



petitioner was granted interim bail in January 2024 and there is no allegation that he misused the liberty so granted.

11. As a sequitur to the above, this court is persuaded to grant the petitioner – **Lalit @ Piku s/o Meher Singh** – regular bail pending trial, subject to the following conditions :

11.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Rs. Twenty-five Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

11.2. The petitioner shall furnish to the Investigating Officer/S.H.O, P.S.: Dwarka South, Delhi a cell-phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

11.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of this court;

11.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and

11.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.

12. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered



necessary to impose a reporting requirement as a condition of regular bail.

13. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
14. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

MARCH 3, 2025

SS