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

+ **BAIL APPLN. 3413/2024**

VISHAL

.....Petitioner

Through: Mr. Pavitra Veer Singh and Mr. S.G.
Goswami, Advocates.

versus

STATE GOVT.OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP with Insp.
Brahma Dutta Vishnoi, PS-Ghazipur.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **19.08.2025**

CRL.M.A. 28577/2024 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

BAIL APPLN. 3413/2024

1. The present Petition under Section 483 read with Section 528 of Bharatiya Nagarik Surksha Sanhita, 2023 has been filed on behalf of the petitioner seeking grant of bail in FIR No. 204/2022 under Sections 302/34 of the Indian Penal Code, 1860 registered at Police Station Gazipur, Delhi.
2. On the intervening night of 06/07.02.2022, Sunil Kumar was shot dead inside his home at B-390, Rajbir Colony, Delhi. His wife Anita reported that accused Akash (son of victim's real aunt) and Vishal (son of victim's maternal uncle) entered the house after asking her to open the gate. Akash allegedly pointed a pistol at the victim, while Vishal instigated him to



shoot, after which Akash fired at victim's temple. While fleeing, co-accused Akash was heard saying that he has taken revenge for his father's death. The CCTV footage from a nearby camera corroborated their presence, and statements of Anita, the deceased's brother Sudhir, his mother, daughter, and son all supported the account. The post-mortem report confirmed death due to gunshot injury to the head, consistent with homicide.

3. Subsequently, both accused were apprehended by the police on 07.02.2022 at Hasanpur Red Light while on a motorcycle. During interrogation, they confessed and revealed that the pistol used in the crime was thrown into a canal, though recovery attempts failed. Their disclosure statements revealed that Akash believed that the deceased was responsible for his father Rajbir's death in 2007, though records showed Rajbir had accidentally fallen while in an intoxicated state. The police collected blood, clothes, and CCTV footage as evidence. After completion of investigation, chargesheet was filed against Akash and the present petitioner under Sections 302/201/34 IPC and 27 Arms Act.

4. Learned counsel or the petitioner submits that the petitioner has been falsely implicated in the present case in connivance with the complainant, though he has not committed any offence nor had any knowledge or intention regarding the alleged incident. It is submitted that on 07.02.2022, co-accused Akash fired the bullet which caused the death of Sunil Kumar, while the petitioner was merely shown to be present near the gate. No recovery has been effected from his possession and recovery if any shown is false and planted by police officials of PS Gazipur.

5. Furthermore, it has been submitted that the petitioner has no prior criminal antecedents, no case is pending against him, and he is permanently



residing at his address with no likelihood of absconding or tampering with prosecution evidence. Several prosecution witnesses, including PW Anita and PW Sudhir, have either failed to depose or have been sent back unexamined on multiple occasions due to non-filing of the FSL report, illness, or their own reluctance, which further demonstrates manipulation in the prosecution story.

6. Per contra, the learned APP has opposed the bail application, submitting that on 07.02.2022, a PCR call was received about a gunshot at H. No. B-390, Rajveer Colony, Delhi. The blood was found lying at the spot at several places and Sunil Kumar was declared “brought dead” at LBS Hospital. Post-mortem report confirmed gunshot injury near the right ear, sufficient to cause death in the ordinary course of nature. The wife of the deceased, Anita, in her statement, clearly identified Akash as the shooter and Vishal, the petitioner, as the one who instigated him to fire.

7. It is further submitted that CCTV footage showed both accused near the crime scene and Sudhir, brother of the deceased, identified them as well. The motive was revenge for the alleged death of Akash’s father 15 years ago, which Akash himself admitted while fleeing.

8. The court has considered the rival submissions advanced on behalf of the petitioner and the State.

9. The petitioner is being prosecuted along with co-accused Akash in a case of brutal homicide committed in the intervening night of 06/07.02.2022. The statements of the complainant Anita (wife of the deceased) and Sudhir (brother of the deceased) clearly implicate the



petitioner as being present at the spot and exhorting the co-accused Akash to fire. The presence of the petitioner has also been corroborated by CCTV footage collected during investigation. PW-3 Anita has identified the petitioner and co-accused Akash in CCTV footage. At this stage, the ocular evidence and supporting material prima facie establish his active participation in the commission of the offence.

10. The contention of the petitioner that nothing was recovered from him and his mere presence is insufficient to fasten liability cannot be accepted at this stage. The role attributed to the petitioner is not passive but one of active instigation, which, in law, makes him equally liable under Section 34 IPC for sharing common intention. Thus, the evidence collected so far reasonably connects the petitioner to the commission of the crime.

11. The gravity of the offence is of paramount consideration. The act of firing a gunshot at close range inside the victim's house, resulting in instantaneous death, reflects a heinous and deliberate act of vengeance. The petitioner's role in accompanying the co-accused, entering the victim's home at midnight, and instigating the firing shows clear common intention. Granting bail at this stage would send a wrong signal to society and undermine public confidence in the criminal justice system. The seriousness of the charge and the severity of punishment prescribed weigh heavily against the grant of bail.

12. The principles governing the grant of bail have been clearly laid down by the Supreme Court in ***Prahlad Singh Bhati v. NCT of Delhi*** (2001) 4 SCC 280 and reiterated in ***Prasanta Kumar Sarkar v. Ashish Chatterjee*** (2010) 14 SCC 496. The Court has emphasized that bail jurisdiction must be exercised on well-settled principles and not arbitrarily,



keeping in view the nature and gravity of the accusation, the severity of punishment in the event of conviction, and the prima facie material supporting the charge. Factors such as the likelihood of the accused absconding, tampering with witnesses, repeating the offence, or obstructing the course of justice, along with the character, behaviour, and standing of the accused, must be considered. Importantly, at the stage of bail, the Court is required only to see whether there are reasonable grounds for believing that the accused is involved and that a genuine case exists, rather than demanding proof beyond reasonable doubt.

13. Having regard to the facts and circumstances of the case, this Court is of the considered opinion that the petitioner has failed to make out a case for grant of bail. The material on record prima facie establishes his complicity in the offence under Section 302 read with Section 34 IPC. The trial is at an initial stage and key witnesses, being family members of the deceased, are yet to depose fully. There exists a strong likelihood that if released on bail, the petitioner may influence or intimidate witnesses, thereby hampering the course of justice. Accordingly, the present bail application is dismissed.

RAVINDER DUDEJA, J

AUGUST 19, 2025/ na