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

+ **BAIL APPLN. 3482/2024**

UMESH @ KALA

.....Petitioner

Through: Mr. Murari Tiwari, Mr. Rahul Kumar,
Mr. Sarthak Singh, Mr. Krishnam
Swami and Ms. Kritika Mishra,
Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Manjeet Arya, APP for the State.
Inspector Ashwani, P.S.: Maurya
Enclave.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

27.01.2025

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No. 83/2018 registered under sections 302/307/120-B of the Indian Penal Code, 1860 ('IPC') at P.S.: Maurya Enclave, Delhi.

2. Notice on this petition was issued on 26.09.2024.
3. Status Reports dated 12.11.2024, 13.11.2024 and 19.12.2024 have been filed in the matter.
4. Nominal roll dated 14.11.2024 has also been received from the concerned Jail Superintendent.
5. The case concerns the unnatural death of one Monu Maan @ Nepali, who is alleged to have been shot dead after he had attended a court



hearing as an accused in a case at the Rohini Courts, New Delhi, the allegation being that after he had left the court premises, the petitioner alongwith his associates followed him and shot him dead.

6. Upon being queried as to the service of intimation of the pendency of present proceedings upon the next-of-kin of the deceased, the Investigating Officer (I.O.) has informed the court that the next-of-kin of the deceased have declined to participate in the present proceedings. In the circumstances, the court has proceeded to hear the case.
7. Mr. Murari Tiwari, learned counsel appearing for the petitioner submits, that as would be seen from a perusal of the status report filed in the matter, the petitioner's name has been brought into the case based on the disclosure statement of co-accused Mohit @ Monu, who is alleged to be one of the persons who shot dead Monu Maan @ Nepali.
8. Learned counsel argues, that the petitioner was arrested in a certain *kalandra* proceedings, whereafter he was formally arrested in the present case by the Crime Branch of the Delhi Police under section 41 of the Code of Criminal Procedure 1973; and permission was taken from the learned trial court to interrogate the petitioner.
9. Mr. Tiwari submits that it is not even the prosecution case that the petitioner was the person who shot at Monu Maan @ Nepali; and the accusation is only that he is one of the persons who had conspired to kill the deceased.
10. It is pointed-out that two of the co-accused persons - namely Naresh @ Sonu and Mohit @ Monu - have been released on regular bail *vide*



orders dated 14.09.2022 and 31.01.2023 respectively made by the learned Sessions Court; and the third accused - Gaurav Sharma has been admitted to regular bail *vide* order dated 25.04.2024 made in BAIL APPLN. 3666/2023 by a Co-ordinate Bench of this court.

11. Mr. Tiwari submits that it is important to note that only 09 out of 61 prosecution witnesses cited in the charge-sheet have so far been examined; but in the meantime, the petitioner has been in judicial custody as an undertrial for more than 06 years, with the conclusion of the trial being nowhere in sight.
12. Counsel clarifies, that though the nominal roll shows that there are 03 other cases pending against the petitioner (in addition to a conviction under section 302 of the IPC), the petitioner is already on bail in 02 of the FIRs; and in the case in which he stands convicted, his sentence has been suspended *vide* order dated 30.07.2024 made by a Division Bench of the Punjab & Haryana High Court.
13. Mr. Tiwari also points-out that even in the present case, the petitioner was granted interim bail from 22.06.2024 to 18.07.2024 and he surrendered back to custody on his own, though with a 02-day delay, but there is no allegation that he misused the liberty so granted.
14. In the circumstances, it is argued that the petitioner deserves to be enlarged on regular bail.
15. Ms. Manjeet Arya, learned APP appearing for the State has opposed the grant of bail, submitting that the petitioner is accused of having conspired to shoot dead Monu Maan @ Nepali as part of gang rivalry between two dreaded gangs of Delhi, namely the '*Gogi Gang*' and '*Tillu Tajpuria Gang*'; and the deceased was believed to be a member



of the Gogi Gang while the petitioner belongs to the Tillu Tajpuria Gang.

16. She submits that in the course of his deposition, the complainant has also named the petitioner as being one of the persons who had fired upon the deceased Monu Maan @ Nepali.
17. Learned APP also points-out, that as would be seen from his nominal roll, the petitioner is implicated in 03 other cases and has also suffered a conviction under section 302 of the IPC in another case; and he is also facing trial in a case under sections 3/4 of the Maharashtra Control of Organised Crime Act, 1999 ('MCOCA').
18. Learned APP also submits that the petitioner's overall jail conduct has been 'unsatisfactory' and he has been awarded several prison punishments, as detailed in the nominal roll.
19. Though the petitioner's credentials do not inspire much confidence, upon a balance of all considerations obtaining in the matter, what prevails with the court *at this stage*, are the following considerations :
 - 19.1. That 03 other co-accused persons - Mohit @ Monu, Gaurav Sharma and Naresh - including the one who is accused of having shot dead the deceased, have all been released on regular bail in the present case;
 - 19.2. That though there is no gainsaying that the petitioner is implicated in 03 other cases and has suffered a conviction under section 302 of the IPC in another case, it is also the case that he is on bail in 02 of the 03 cases in which he is an undertrial; and his sentence has been suspended in the case in which he has suffered conviction. Needless to observe that the



position of his judicial custody in the 03rd case pending against him under MCOCA would be decided in appropriate proceedings dealing with that case and the decision in the present case would not necessarily mean that he would also be enlarged on bail in the case under MCOCA;

19.3. That it is also noticed, that as per his nominal role, the petitioner was enlarged on interim bail from 22.06.2024 to 18.07.2024; and though he surrender 02 days late, there is no allegation that he misused the liberty of interim bail that was granted to him; and

19.4. That it cannot be ignored that the petitioner has already suffered judicial custody for more than 06 years as an undertrial in the subject FIR; and only 09 out of 61 prosecution witnesses cited in the charge-sheet have so far been examined despite the lapse of more than 06 years. It is therefore evident that trial in the subject FIR will take a long time to conclude; and keeping the petitioner in judicial custody as an undertrial in the meantime be violative of his right to speedy trial guaranteed under Article 21 of the Constitution of India.

20. That said, the State has also expressed another apprehension, namely that by reason of his conduct, the petitioner's family, including his wife, appear to have abandoned him; and it is therefore not clear where the petitioner would reside if released on regular bail. It is also noticed that the petitioner has not given his *full* residential address in the Memo of Parties in the present bail petition; and neither is the full address available in the nominal roll. This is indeed a matter of some



concern, which can however, be addressed by the conditions that this court proposes to impose upon the petitioner.

21. Upon an overall conspectus of the facts and circumstances of the case, this court is persuaded to admit the petitioner – ***Umesh @ Kala s/o Vijender Singh*** – to *regular bail* pending trial, subject to the following conditions :

- 21.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Fifty Thousand Only) with 02 local sureties in the like amount from relatives, to the satisfaction of the learned trial court;
- 21.2. The petitioner shall not leave the National Capital Territory of Delhi without the *prior* permission of the learned trial court;
- 21.3. The petitioner shall furnish to the I.O./S.H.O. a cellphone 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;
- 21.4. 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 the learned trial court;
- 21.5. 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;



- 21.6. Furthermore, considering the doubt as to his residential address, it is directed that *before the petitioner is released from custody*, the petitioner shall furnish to the I.O. the *complete residential address* on which he would reside while on regular bail; the I.O. would verify that address and furnish a report to that effect to the Jail Superintendent (with a copy being placed on record in these proceedings); and only thereafter would the Jail Superintendent release the petitioner on regular bail; and
- 21.7. In case of any change in his residential address, which would always be within the National Capital Territory of Delhi; or any other contact details, the petitioner shall promptly inform the I.O. in writing.
22. 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.
23. Subject to the above, the petitioner is directed to be released from judicial custody *forthwith*, unless required in any other case.
24. The petition stands disposed-of in the above terms.
25. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 27, 2025/ak