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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3426/2025 & CRL.M.A. 26800/2025 EXEMPTION
FROM FILING STATUS REPORT**

RAJESH@KANA

.....Petitioner

Through: Ms. Dolly Sharma, Adv.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **18.11.2025**

BAIL APPLN. 3426/2025

1. This is an application under Section 439 Cr. PC read with Section 483 BNSS for grant of regular bail filed on behalf of the applicant Rajesh@Kana in case FIR No. 530/2021, under Sections 406/34 IPC, PS Alipur.
2. Learned counsel for the applicant submits that applicant has been implicated mainly on the basis of disclosure statements of the co-accused persons. No incriminating recovery has been affected at his instance. He is not visible in the CCTV footage of the place of incident. Learned counsel states that 6 witnesses out of 44, cited by the prosecution, have been examined and they have not deposed anything against the present applicant. Co-accused Bharat Sharma, who is stated to be the main conspirator and the beneficiary, has since been enlarged on bail. With regard to the CDR



evidence, he relies upon the decision of this Court in BAIL APPLN. No. 346/2025 to argue that the evidentiary value of the CDR can only be considered during the trial and not at the stage of consideration of bail application, as such, evidence can only be taken as supportive or corroborative piece of evidence. It is further submitted that applicant has been in custody since 07.08.2021 and there is no likelihood of the trial concluding in near future.

3. *Per contra*, learned APP has vehemently opposed the bail application. He has argued on the lines of the status report. According to him, during investigation, strong evidence has been collected directly, connecting the present applicant with the offence and such evidence includes the disclosure statements of co-accused Sher Bahadur and Rakesh @ Bakra, specifically naming Rajesh as one of the persons who physically overpowered the driver Asfaq and participated in his murder. He submits that his interrogation was consistent with the disclosures of the co-accused.

4. It is further submitted that the CDR analysis shows multiple incoming and outgoing calls between the applicant and his co-accused during the critical period. The call pattern indicates continuous coordination before, during and after the commission of the offence. The Tower Location Chart conclusively places him at the relevant locations at relevant time proving his active participation in the conspiracy.

5. Learned APP further submits by that, the crime is of heinous nature, involving organized criminal conspiracy, hijacking of loaded truck, abduction and cold-blooded murder of truck driver Asfaq and thereafter disposal of his body and the stolen property. He states that several key witnesses are yet to be examined and there is every likelihood that applicant



may threaten the witnesses, if released on bail.

6. As per allegations, complainant Vijay Goel hired a truck to transport 77 tons of stainless steel coils from Mundra Port, Gujarat to Delhi. The driver of the said truck was one namely Asfaq. The truck did not reach the warehouse on the night of 4/5.07.2021 and later was found abandoned near Khera Kalan with the driver missing and a large portion of goods untraceable.

7. Upon enquiry, complainant met a crane operator Akhilesh Tiwari, who informed that Bharat Sharma had hired his crane and got the coils unloaded into a godown at Khera Kalan. On visiting that godown belonging to Pradeep Rana, complainant found part of his stolen consignment. Akhilesh Tiwari had also identified the truck driver Asfaq as the person who had brought the truck for unloading. Upon the statement of the complainant, FIR was registered under Sections 406/34 IPC.

8. The father of truck driver Asfaq later on lodged a complaint, suspecting that his son had been abducted, whereupon, Sections 365/392 IPC were added.

9. On 17.07.2021, based on the disclosure of co-accused Sher Bahadur, a decomposed body of truck driver Asfaq was recovered. The case was accordingly amended to Sections 365/396/302/412/201/34 IPC.

10. During investigation, statements of transporter, drivers, godown owner Pradeep Rana, property dealer Daljeet and crane operator Akhilesh Tiwari were recorded. The CDR analysis revealed active communications between Bharat Sharma, Sher Bahadur, Rajesh, Rakesh @ Bakra, Deepak, Ganesh and the present applicant Rajesh @ Kana. CCTV footage was seized from the DVR of the godown, which corroborated the unloading of coils



allegedly under the supervision of the Bharat and other accused persons.

11. Co-accused Sher Bahadur was apprehended, and in his disclosure statement, he confessed that he along with co-accused persons including the applicant herein, had hijacked the truck, abducted the driver and looted the coils. He specifically named the present applicant as one of the persons who intercepted the truck, overpowered the driver and took the truck to Khera Kalan for unloading. He further stated that to avoid the identification, they collectively decided to kill the driver and accordingly tied his hands and legs, gagged him and threw him into a drain. Co-accused Rakesh @ Bakra also corroborated the role of the present applicant.

12. As per status report, the applicant was later on apprehended and his interrogation was consistent with the disclosures of the co-accused. His CDR and tower location was at the relevant location.

13. Upon the query of the Court, the Investigating Officer states that CCTV footage is not clear and the applicant is not visible in the CCTV footage. The only other evidence, on which the prosecution strongly relies, is the CDR. It is a well settled law that CDR data can be taken as supporting and corroborative piece of evidence and conviction cannot be based solely on the basis of the CDR data. Thus, the evidentiary value of the CDRs can only be considered during the trial and not at the stage of consideration of bail application. Reliance in this regard may be placed on the decision of the Supreme Court in ***State (By NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta*** 2022 12 SCC 633. The relevant paragraph of which reads as under:-

“12. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial.”



14. It is also pertinent to note that the statement of Akhilesh Tiwari has already been recorded before the trial court, and in such statement, he did not identify the present applicant.

15. The applicant has been in custody for more than four years. Lot of witnesses still remained to be examined, and therefore, there is no possibility of completing the trial in near future. Thus, having considered the totality of facts and circumstances as also the nature and quality of evidence *qua* the present applicant, the Court is inclined to grant bail to the present applicant. The applicant is admitted to bail upon his furnishing a personal bond in the sum of Rs. 30,000/- with a surety of the like amount to the satisfaction of learned Trial Court/Duty MM with condition that applicant shall not try to tamper the evidence, shall not try to contact the witnesses and shall cooperate during the trial.

16. It is clarified that any observation made in this order is only for the purpose of disposal of the bail application.

17. The application along with pending application, if any, accordingly stands disposed of.

18. Copy of this order be sent to Superintendent Jail for information.

RAVINDER DUDEJA, J

NOVEMBER 18, 2025/lks/na