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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3466/2025, CRL.M.A. 27089/2025**
SANDEEP GHAWARIPetitioner
Through: **Ms. Jahanvi Worah, Advocate.**

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent
Through: **Mr. Amit Ahlawat, APP for State**
with Mr. Pramod, Insp., PS-Mayur
Vihar.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **11.09.2025**

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 147/2024 registered under Section 302 of the Indian Penal Code, 1860³ at P.S. Mayur Vihar, PH-1. Upon conclusion of investigation, chargesheet was filed against, *inter alia*, the Applicant for the offences under Sections 302/364/147/148/149/120-B of the IPC.

2. The case of the Prosecution, in brief, is as follows:

2.1. On 17th April, 2023, information was received at P.S. Mayur Vihar from LBS Hospital regarding one Ashok @ Thanda Paani, who had been brought dead by a rickshaw puller, Har Govind. The MLC (No. 2837/24)

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



recorded multiple injuries on the body of the deceased, which was preserved for post-mortem. Pursuant thereto, FIR No. 147/2024 was registered and investigation commenced.

2.2. In his statement under Section 161 CrPC, Ashish @ Pista, a friend of the deceased, stated that at about 1:00 PM on the day of the incident, he and the deceased were near Shashi Garden, Sanjay Jheel Park. The deceased had confided with Ashish about disputes with Annu and Deepu, who had threatened him. Around 2:00-2:15 PM, 8-10 masked persons arrived, assaulted the deceased with sticks, and forcibly pulled him into a Swift Dzire car before driving away.

2.3. Investigation revealed that the deceased was abducted by accused Amit, Kushal @ Tarun @ Tannu, Anuj Kumar @ Annu, and Pawan @ Vikas in a white Swift Dzire. The Applicant, Sandeep Ghawari, along with Mukesh Kumar, Abhinav Raj @ Annu Pudi, Neeraj Tank and one unknown associate, followed in a Maruti Brezza. At Bhalaswa Dairy Bypass, co-accused Hukum Chand Ravi joined the Brezza and directed the group to Sheeshmahal Park, Shalimar Bagh, where Tarun Kumar and Vipin @ Bhuche, associates of Hukum Chand, were already present. At that spot, co-accused Mukesh and Anuj retrieved three iron rods from the Brezza's trunk, which were used to assault the deceased.

2.4. The deceased was physically attacked at three different locations: Sanjay Jheel (Shashi Garden); near the Gas Godown at Block 2, Trilokpuri; and Sheeshmahal Park. He succumbed to his injuries and was dumped in an e-rickshaw at Block 2, Trilokpuri. The driver subsequently transported him to LBS Hospital.

2.5. All three iron rods used in the assault were later recovered at the



instance of the Applicant and co-accused Mukesh and Abhinav Raj. The autopsy surgeon opined that the injuries sustained by the deceased could have been inflicted by the said weapons.

2.6. Raheem Khan, a Shikanji vendor at Sanjay Lake, identified the deceased from a photo shown by the IO as the person abducted from the area on 17th April, 2024. Based on this information, Sections 364/147/148/149/120-B IPC were added to the present case.

2.7. The deceased's sister, in her statement under Section 161 Cr.P.C., identified him in a viral video sitting in the rear seat of the Dzire. She confirmed he wore the same clothes on the day of the incident and stated that he had prior disputes with accused Mukesh Kumar, and recently with Ankit and Veerana.

2.8. Har Govind, the e-rickshaw driver, stated that around 7:30 PM near the Gas Godown at Trilokpuri, a tall man alighted from a white Swift Dzire and offered him ₹500 to transport his injured friend (the deceased) to LBS Hospital. The man, later identified in TIP proceedings as Anuj @ Annu, assisted in placing the deceased into the rickshaw, but alighted midway near Mother Dairy, saying he would meet them at the hospital.

2.9. CDR analysis and CCTV footage placed the accused persons, including the Applicant, at the crime locations. CCTV from Sheeshmahal Park, Shalimar Bagh, captured the Swift Dzire and Maruti Brezza used in the abduction and assault.

2.10. On 29th April, 2024, the Applicant was arrested and identified based on disclosure of the accused as well as CCTV footage. Three mobile phones, used in the commission of the offence, were recovered from him. On 2nd May 2024, the clothes worn by the Applicant during the incident (as seen in



CCTV) were recovered from his residence. CDR data confirmed that the Applicant was in constant communication with co-accused *via* mobile and WhatsApp calls. He joined the group after speaking to Abhinav Raj and actively participated in abducting and placing the deceased.

3. Counsel for the Applicant makes the following submissions in support of bail:

3.1. The Applicant is a young individual, aged 36 years, and the sole breadwinner for his family, which includes a widowed mother, wife, and two minor children. He has been falsely implicated in the present case.

3.2. The Applicant has been in judicial custody since 28th April, 2024. The investigation is complete, and the chargesheet has already been filed. The Applicant's custody is no longer necessary for investigative purposes. Continuing his detention would amount to punitive incarceration.

3.3. The Prosecution's reliance on CCTV footage and CDR is misplaced. No CCTV footage depicts the deceased entering or exiting the white Swift Dzire car, nor does any footage show the deceased in the company of the Applicant or any of the accused. Thus, the CCTV recordings cannot directly link the Applicant to the abduction or assault.

3.4. The CDR of the deceased, filed along with the chargesheet, does not place him in the company of the Applicant. The last call recorded on the CDR is at 1:17 pm, after which six pages of the CDR are inexplicably missing from the chargesheet.

3.5. The Prosecution has failed to produce any evidence on record implicating the Applicant in the alleged incident. There has been no recovery from the Applicant, he is not named in the FIR, and none of the statements of the witnesses mention his name. The testimony of Har Govind,



the e-rickshaw puller who allegedly transported the deceased, is riddled with contradictions and incapable of sustaining the Prosecution's case.

4. On the other hand, Mr. Amit Ahlawat, APP for the State, opposes the bail application. He submits that the investigation conducted thus far clearly links the Applicant to the offence. Given the gravity of the offence and the current stage of the trial, granting bail poses a significant risk that the Applicant may tamper with evidence or influence witnesses who are yet to be examined. He further submits that although there is no direct eyewitness to the offence, the Prosecution has gathered sufficient material during the investigation, including CCTV evidence and CDR records, to establish a connection between the Applicant and the scene of the crime.

5. The Court has considered the contentions noted above. The Applicant was arrested on 28th April, 2024, and has remained in custody since then. While it is true that the chargesheet has been filed and the investigation stands concluded, the mere completion of investigation does not, *ipso facto*, entitle the Applicant to bail. The discretion to grant bail must be exercised with reference to the nature of the accusation, the weight of the evidence, the severity of the offence, and the likelihood of interference with witnesses or recurrence of crime. The Supreme Court, in ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***,⁴ emphasised that bail is a discretionary relief, to be granted or denied in a judicious manner, not as a matter of course. The relevant extracts of the aforementioned judgment are as follows:

"11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary

⁴ 2023 INSC 761.



from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:

11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.

11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.

11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.

11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail."

[Emphasis Supplied]

6. On merits of the case, it must be noted that the Court, at the stage of bail, is not to conduct a mini-trial, nor would it be appropriate to render findings that might prejudice either side. However, since counsel for the Applicant has strenuously argued on the probative value of the material collected during the investigation, the Court considers it is apposite to briefly examine the same for the limited purpose of forming a *prima facie* opinion.

7. The record reveals that on 2nd May, 2024, during police remand, the clothes allegedly worn by the Applicant at the time of the incident were recovered from his residence. The Prosecution contends that these clothes match the attire seen in the CCTV footage obtained from the scene of the crime. Further, on 29th April, 2024, three mobile phones were recovered from the personal search of the Applicant, which were purportedly used during the commission of the offence.



8. The Prosecution further relies on CCTV footage from the vicinity of the crime scene, in which the Applicant is allegedly identifiable in the company of co-accused near Sheeshmahal Park. CDR analysis indicates that the Applicant was in regular telephonic and WhatsApp contact with co-accused Abhinav Raj, and, pursuant to a specific call, he allegedly joined the group that carried out the abduction and assault. The CCTV footage from a location near Sheeshmahal Park purportedly shows the Applicant along with the co-accused and an unidentified person. Additionally, the Prosecution places reliance on the recovery of a weapon, an iron rod, allegedly used to assault the deceased, as well as the blood-stained clothes of the deceased and the clothes worn by the accused at the time of the incident. It is stated that the iron rod was recovered at the instance of the Applicant. While the evidentiary value of these recoveries will ultimately be tested at trial, they constitute *prima facie* corroborative material at this stage. The Court also cannot overlook that certain co-accused remain absconding, heightening the risk of the Applicant absconding himself or interfering with the due course of the investigation and trial.

9. It has been urged that the Applicant's name does not find mention in the FIR and that no eyewitness has specifically attributed any overt act to him. However, it is well settled that non-mention in the FIR is not conclusive of innocence, especially when subsequent investigation yields material linking the accused to the offence. The statements of witnesses recorded under Section 161 Cr.P.C., the recoveries made during investigation, and the CDR analysis indicating coordination with co-accused constitute material, which, at this stage, cannot be discarded merely because the FIR did not name the Applicant.



10. Further, the contention that the CCTV footage does not depict the deceased in the company of the Applicant also cannot be determinative at this juncture. The Prosecution does not rest its case on CCTV alone; rather, the CCTV is pressed into service as corroborative of other material, including recoveries of clothes and the iron rod, as well as the Applicant's admitted association with the co-accused contemporaneous with the incident. At the stage of bail, the Court is not required to undertake a microscopic evaluation of evidentiary admissibility or sufficiency. What is relevant is that the cumulative material discloses a *prima facie* link between the Applicant and the alleged crime, sufficient to deny the relief sought.

11. Accordingly, in totality of the foregoing facts and circumstances, considering the nature and gravity of the offence, which involves a brutal assault resulting in the death of the victim, and taking into account the material collected during investigation, such as recovery of the alleged weapon, matching CCTV footage, CDR analysis indicating coordination with co-accused, and the recovery of relevant articles, this Court is not inclined to allow the Applicant's request.

12. 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.

13. Dismissed along with pending application.

SANJEEV NARULA, J

SEPTEMBER 11, 2025

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