



2025:DHC:2464



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

% *Date of decision: 08.04.2025*

+ **BAIL APPLN. 3564/2024**

ROHIT

.....Petitioner

Through: **Mr. Saud Ahmed and Mr. Rafiq Ahmed, Advs.**

versus

STATE GOVT. OF NCT DELHI

.....Respondent

Through: **Mr. Tarang Srivastava, APP with Inspector Rajeev, PS Ashok Vihar.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J. (ORAL)

CRL.M.A. 29860/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 3564/2024, CRL.M.A. 29861/2024

3. By way of the present petition filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ("CrPC"), the petitioner seeks for grant of Regular Bail in FIR No. 0023/2023 dated 11.01.2023 ("subject FIR") for offences under Sections 302/307 of the Indian Penal Code, 1860 ("IPC") registered at Police Station Ashok



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Vihar.

4. *Vide* Orders dated 04.10.2024 passed by this Court, the present petition has been treated as one under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”).

5. The case of the prosecution is premised on the statement of one Ganesh Dutt son of Sh. Rama Kant Pandey (eye witness), who has narrated the incident, on 10.01.2023 at 05:01 PM, he was going to C-56/2 WPIA, after loading goods in a hand rickshaw, when he reached near C-59/60, he saw the petitioner quarrelling with a person and beating him. In the presence of the eye witness, the petitioner stabbed the said person with a knife. Thereafter, the petitioner while running away from the place of incidence, struck with his rickshaw of the Ganesh Dutt and abused him. When Ganesh Dutt opposed the said act, the petitioner gave a stab injury on his thigh and under arm with the same knife that he was carrying and fled away from the spot. At that time, Ganesh Dutt saw the relatives of the injured person, whom the petitioner had earlier stabbed, moving him to the Hospital in an auto-rickshaw. A PCR vehicle passing by, took the eye witness to the Deep Chand Bhandu Hospital, where in the emergency ward, the said injured person, whose name came to be known as Ashok, was admitted in unconscious condition and was declared to be brought dead *vide* MLC No. 150/23 by the concerned Doctor. Upon receiving the first aid treatment, the eye witness was referred to the Safdarjung Hospital for further treatment. Thereafter, his statement was recorded by the Police and the subject FIR was registered on 11.01.2023



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leading to initiation of investigation into the matter. On conclusion of the investigation, the charge-sheet was laid before the learned Trial Court. The charges were framed and the trial is underway.

6. Mr. Saud Ahmed, the learned counsel for the petitioner submits that accused is in custody since 11.01.2023, the prosecution has examined its material witness i.e. Ganesh Dutt as PW-1, who is the complainant as well as an eye witness of the case. However, he has not supported the prosecution case in any manner. Despite the fact that the learned Prosecutor conducted a detailed cross-examination of the witness upon getting him declared hostile, but the witness stood by his testimony made before the learned Trial Court.

7. He submits that PW-1 categorically did not support the case of the prosecution with respect to the identity of the petitioner, being the assailant and causing the murder of deceased Ashok Kumar in his presence or to have caused knife injury to him. Apart from PW-1, the learned counsel submits the other 20 witnesses cited by the prosecution are only formal witnesses. Even as much so, the public witnesses i.e. PW-5 and PW-6 had arrived at the place of incident after the occurrence of the incident, thus, their evidence is merely formal in nature. He further submits that apart from this, there is no other incriminating or direct evidence against the petitioner, as such, no CCTV footage has been placed on record by the prosecution.

8. He submits that in such circumstances when the main pillar i.e. the statement of the eye witness being PW-1, on which the prosecution case rests has completely stumbled, no purpose would be



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served to keep the petitioner in the custody any further. Rather, due to long incarceration period, his future shall be ruined as the petitioner is 10th class passed and he intends to pursue 12th class from National Open School, Delhi and also seeks to undertake some skill development courses. He further submits that the petitioner has no previous criminal background and has clean antecedents, thus, he may be admitted to bail.

9. Mr. Tarang Srivastava, the learned APP, did not dispute the fact that the main eye witness namely Ganesh Dutt has turned hostile to the prosecution version, thereby, not supporting its case with respect to the petitioner being the perpetrator of the crime. He also admits that apart from PW-1, there is no other material witness, who had cited in the incident. However, while opposing the bail application, he submits that the FSL report is yet to be received and other witnesses are yet to be examined, thus, at this stage, the petitioner be not enlarged on bail.

10. In view of the above, as the case of the prosecution mainly rests upon the evidence of the eye witness i.e. Ganesh Dutt (PW-1), who has not supported the prosecution version and no CCTV footage has been placed on record. The Nominal Roll shows that the petitioner is in custody since date of his arrest being 11.01.2023. His overall jail conduct is reported to be 'satisfactory'. He has clean antecedents and is not involved in any other criminal case.

11. In view of the consideration of the above circumstances, the Petitioner, **Rohit** is admitted to Regular Bail pending trial in the subject FIR i.e. FIR No. 0023/2023 dated 11.01.2023 for offences



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under Sections 302/307 of the IPC registered at Police Station Ashok Vihar, subject to his furnishing a personal bond in the sum of ₹ 30,000/- with one surety bond of the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:

- i. The Petitioner shall not leave State of NCT of Delhi without prior permission of the Learned Trial Court.
- ii. The Petitioner shall report at P.S. Ashok Vihar after every fortnight on Saturday at 4:00 P.M. The concerned officer shall release the Petitioner by 5:00 P.M. after recording his presence and after completion of all the necessary formalities.
- iii. The Petitioner shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of his residential address.
- iv. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner is to give his mobile number to the Investigating Officer and keep it operational at all times.
- vi. The Petitioner shall neither contact nor visit to any of the Prosecution witnesses.
- vii. The Petitioner shall not tamper with evidence nor indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

12. A copy of this Order be sent to the Jail Superintendent



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concerned for information and necessary compliance.

13. It is made clear that this Court has not expressed any opinion on the merits of the Petitioner/applicant's case.

14. Accordingly, the petition along with pending application stand disposed of.

SHALINDER KAUR, J

APRIL 8, 2025/ss/kp

Click here to check corrigendum, if any