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

+ **BAIL APPLN. 3592/2025**

DEEPAK ALIAS GAURAV

.....Petitioner

Through: **Mr.Kartikeye Dang, Advocate**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Mr.Sanjeev Sabharwal, APP for the
State alongwith Insp. Neeraj Kumar
and Insp. Mukesh Kumar, P.S.-
Ambedkar Nagar**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **13.10.2025**

1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 03.06.2021 i.e. more than 4 years 4 months, in a criminal case arising out of FIR No.383/2021 dated 02.06.2021 for alleged offences under Sections 34, 302 of IPC, registered at P.S. Ambedkar Nagar.

2. Per FIR, prosecution/complainant's (informer) case is that on 01.06.2021, the eyewitness/complainant Dushyant @ Dipanshu Pachauri, was standing outside his house when his friend Kunal (victim), aged 19 years, invited him to accompany him to purchase a cake for his father's birthday. The complainant agreed, and they both left on the complainant's Scooty.

2.1 After buying the cake, while returning, around 8:30 PM, the accused/applicant, known to the complainant along with Sameer (co-accused) picked



up a fight and obstructed their path. The applicant forcibly pulled the victim off the Scooty, causing the complainant to lose balance and fall. Subsequently, the applicant began stabbing the victim with a knife, while Sameer assaulted him with repeated kicks and punches.

2.2 At this juncture, two more accused persons, Sahil (co-accused no.1) and Roop Kishore @ Bhola (co-accused no.3), arrived at the scene with knives, inciting the applicant to “finish him off.” Thereafter, the applicant along with co-accused nos. 1 and 3 proceeded to stab the victim, while Sameer continued physically assaulting him. The attackers fled as bystanders began to gather at the scene.

2.3 The victim sustained knife wound on his neck and started to bleed profusely. In panic, the complainant informed victim’s brother, Ravi (PW3), who, along with a friend, Ankush, took victim on the complainant’s Scooty to Max Hospital. Victim later succumbed to his injuries.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition urging as below:

4.1 That the applicant was arrested on 03.06.2021 and has since undergone a period of 4 years, 4 months, and 9 days in custody. He would contend that the prolonged incarceration of the applicant is contrary to settled principles of law and violative of his fundamental rights. That the investigation in the present case is complete, and all material evidence is in the possession of the Learned Trial Court or the Investigating Officer. The original chargesheet was filed on 31.08.2021, and three supplementary chargesheets were filed on 23.11.2021, 23.01.2025, and 01.05.2025.



4.2 That the conclusion of the trial is likely to take considerable time, as in the last two and a half years since the commencement of the trial on 25.02.2023, only 13 out of 29 witnesses have been fully examined, 4 witnesses have been partially examined pending the FSL report, and 12 witnesses are yet to be examined. He would submit that it is settled law that an accused has a right to a fair trial. While a hurried trial is frowned upon, an inordinate delay in trial infringes the rights guaranteed under Article 21 of the Constitution and on this ground alone, the applicant is entitled to bail.

4.3 That the applicant satisfies the triple test for grant of bail as laid down by the Supreme Court in ***P. Chidambaram v. CBI (2020) 13 SCC 337***. That the complainant (PW1) and all private witnesses have already been examined, leaving no scope for influencing witnesses. He would argue that all evidence relied upon by the prosecution has been seized and is in custody of the Investigating Officer and the Trial Court, eliminating any possibility of tampering.

4.4 That the applicant is 24 years old and resides with his family, including his father, mother, brother, and sister, and therefore is not a flight risk. His father suffers from mental illness and requires care and medication. He would urge that the applicant is the sole family member able to provide necessary medical attention and financial support, as his elder brother resides separately and the younger siblings are students, and the applicant is also required to pursue legal formalities for his father's dues.

4.5 That the applicant is entitled to bail on the ground of parity, as the Trial Court has already granted bail to similarly placed accused, Shiv Kumar @ Babloo, on 31.10.2023. Similarly, the mastermind of the conspiracy, Nikhil Nagar, was granted bail on 18.11.2023, despite having absconded for



two months. In contrast, the applicant has been in custody since 03.06.2021, immediately following the FIR registration. Further, in Bail Application No. 4265/2024, co-accused Suhail @ Sahil was granted bail on 14.08.2025, with the Court noting that prolonged pretrial detention becomes punitive and violates the principle that bail is the rule and jail the exception.

4.6 That from the trial conducted so far, no case has been made out against the applicant. PW1 initially turned hostile and could not identify the applicant, raising the possibility of tutoring. That the alleged dying declaration of the victim, recorded by PW2 and PW3, was not made, as PW2 confirmed the victim was unable to speak while being taken to the hospital. The prosecution's case also relies on CCTV footage from PW7, Pankaj's residence; however, the contents were not described in the chargesheet, and the DVR/CCTV system was reportedly not functioning on the date of the incident. Furthermore, the footage was examined only after the FSL report, and no finding has been made regarding its genuineness, editing, or tampering.

4.7 That a change in circumstances has occurred since the dismissal of the first bail application (Bail Appl. No. 2936/2024) on 21.11.2024. All private witnesses have now been examined, only official witnesses remain, and subsequent supplementary chargesheets and FSL reports have been filed. The co-accused has been granted bail, and the applicant has already spent significant time in custody, which alone constitutes a change in circumstances warranting bail.

4.8 Learned counsel would submit that grant of bail is the rule and refusal the exception. The applicant, if granted regular bail, would be in a better position to cooperate with the investigation and defend himself. Denial of



bail would cause grave prejudice to the applicant, while no prejudice would be caused to the prosecution as he would appear regularly before the Trial Court. The applicant is a law-abiding citizen from a respected family with deep roots in society, is a permanent resident of Delhi, has clean antecedents, and is not accused in any other case. He undertakes to abide by any conditions imposed by this Court or the Trial Court.

5. Opposing the above submissions, the learned APP for the State argues that the same is *sans* merit and there remains a genuine risk of the applicant absconding and influencing or intimidating the victim if granted the concession of bail. He thus submits that the instant application deserves to be dismissed.

6. Having heard, for the reasons noted here after, I am of the view it is a case for bail.

7. *Prima facie*, as per the prosecution's version, the role attributed to the applicant is same as that of co-accused Roop Kishore @ Bhola. It is stated that the applicant inflicted the first knife blow, subsequently joined by co-accused Roop Kishore @ Bhola and another co-accused, Sameer, who was a juvenile at the time of the incident. The collective act of stabbing by the three is stated to have resulted in the death of the deceased.

8. Adverting further, no recovery has been effected from the applicant, whereas the alleged knife was recovered from co-accused Shiv Kumar @ Babloo, who has already been granted bail *vide* order dated 31.10.2023. Similarly, co-accused Nikhil Nagar was enlarged on bail *vide* order dated 18.11.2023, and co-accused Sahil and Roop have also been granted bail by this Court *vide* orders dated 14.08.2025 and 09.10.2025 respectively. Thus, I



am of the view that on the ground of parity, the applicant is also entitled to the concession of bail at this stage.

9. Aside above, it transpires that the star prosecution witness, PW-1, stated to be an eyewitness, initially turned hostile during his testimony, admitting that he had never seen the applicant either armed or stabbing the victim. He made a similar statement in respect of co-accused Roop Kishore @ Bhola, and in fact, gave an omnibus denial, stating that he did not witness any of the accused stabbing the deceased. Furthermore, the dying declaration stands contradicted by PW-2 (a friend of the deceased's brother) and PW-3 (the deceased's brother). Even the CCTV footage, stated to have been obtained from the residence of PW-7, remains unverified and has been disowned by PW-7 himself.

10. Be that as it may, their testimonies are also a matter of trial and at this stage, I have already observed it is a case for bail in light of the aforesaid. There are other reasons too.

11. The applicant has remained in custody since 03.06.2021, i.e. for approximately 4 years and 4 months. The investigation is over *qua* him as the charge sheet has been filed on 31.08.2021, he is thus not required for any custodial investigation.

12. Moreover, as it is stated, only 13 out of 29 witnesses have been fully examined and given the snail's pace, further continued incarceration would cause undue hardship to the applicant's family and serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

13. The applicant is statedly about 24 years of age, in the prime of his youth, with his career ahead of him, residing with and being the sole bread



earner for his family, and having deep roots in society, and thus poses no flight risk. As regards any apprehension of influencing or intimidating witnesses, absconding, or tampering with evidence, there is nothing on record to support the same given that the material evidence has been seized, rendering such apprehension illusory. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant has clean antecedents as per the nominal roll dated 09.10.2025 and thus, his continued detention may amount to punishment before conviction, at this stage.

14. As an upshot and taking a wholesome view of the matter i.e. star witness has turned hostile, and the four co-accused have already been granted bail thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

OCTOBER 13, 2025/dy