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

% **Date of decision: 30.04.2025**

+ **BAIL APPLN. 3846/2024**

ADITYA MISHRA

.....Petitioner

Through: **Mr. Narendra Mishra, Adv.**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Ms. Meenakshi Dahiya, APP
for State.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. The present application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioner seeking grant of regular bail in FIR No. 1079/2022 for offence under Section 302 of the Indian Penal Code, 1860, registered at Police Station Subhash Place.

2. The case of the prosecution is that on 14.11.2022, at approximately 11:55 a.m., a PCR call was received at Police Station Subhash Place, recorded *vide* DD No. 34/A, reporting a suspected murder. Acting upon the said information, the police reached the scene of the incident, located at House No. K-26, Shakurpur, Delhi, where the dead body of a male, approximately 50 years of age, was



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found lying in a pool of blood near the entrance of his flat, with blood oozing from his nose.

3. Upon preliminary inquiry, the deceased was identified as Ranjit Lal, son of Kundan, resident of Shakurpur, Delhi. His wife, Smt. Tejeshwari, along with their children, was present at the spot. The deceased was then transported to Bhagwan Mahavir Hospital, Pitampura, where he was declared “brought dead” *vide* MLC No. 3038/22. Subsequently, the body was transferred to the mortuary of Dr. BSA Hospital, Rohini, for postmortem.

4. The statement of Mahavir (complainant herein), son of the deceased, was recorded wherein he stated that his father, a retired Army personnel, had a history of alcohol dependence and committed habitual violence against his mother. Following a violent altercation on 11.11.2022, the maternal uncle, namely, Umesh, tried counseling the deceased which resulted in failure. Consequently, Mahavir, his mother, and siblings moved out of the house of the deceased and post dinner at the place of Umesh, went to stay at the house of the friend of the Jayanti, namely Rahul. On 14.11.2022, Smt. Rinku, who resided on the 3rd floor, telephonically informed his mother that the deceased was found lying in a pool of blood. Mahavir, along with his mother and maternal aunt, returned to their flat and found the deceased lying dead. Thereafter, he apprised the Police about the said incident.

5. Accordingly, the FIR No. 1079/2022 dated 14.11.2022 was registered under Section 302 of the Indian Penal Code. Consequently, the Investigation commenced, during which CCTV footage from the



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vicinity was reviewed and the movement of the petitioner along with the other co-accused persons were captured in the cameras installed at House no. K-28, House no. K-197, House no. K-136, House no. K-64, House no. K-70 and House No. K-32. In the footage recovered from the aforesaid cameras, three suspects were seen entering the premises at around 16:59:11 and 16:59:14. The suspects were seen exiting the premises on 13.11.2022 at around 17:02:10 hours. One of them was identified as Aditya Mishra @ Baddi (the petitioner herein), son of Mukesh Mishra, a friend of Nitin @ Tane, and the other two as Nitin and Mahavir.

6. Upon interrogation of Nitin, he revealed that the murder was committed by him along with the petitioner and Mahavir, at the behest of one Jitesh Gupta. It was alleged that Jitesh Gupta, who is the landlord of the deceased, aggrieved by the continued disturbances caused by the deceased, and in conspiracy with the family of the deceased, planned to eliminate the deceased. Jitesh supplied the weapon (a stick and a baseball bat) through Mahavir and directed Nitin and the petitioner to execute the plan.

7. The petitioner along with Jitesh and Nitin were arrested. Mahavir, being a Child in Conflict with Law (CCL), was apprehended separately on 14.11.2022. The murder weapons, the stick and the bat, were recovered at the instance of the accused, Nitin. The CCTV footage from the shop of Jitesh Gupta purportedly captured the sequence following the offence and was seized. Furthermore, the



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gunny bag that was allegedly used to carry the weapons to the crime scene was recovered from the instance of the co-accused Jitesh Gupta.

8. The postmortem, conducted on 19.11.2022 *vide* PM No. 822/22 at Dr. BSA Hospital, recorded the cause of death as "*cranio-cerebral injury*", with all injuries being fresh, ante-mortem, and inflicted by blunt force, sufficient to cause death in the ordinary course of nature.

9. Upon conclusion of the investigation, a Charge Sheet was filed on 05.02.2023. The matter is presently pending trial before the learned Trial Court and is at the stage of recording of the Prosecution Evidence.

10. Subsequently, co-accused Jitesh Gupta was enlarged on bail by this Court *vide* order dated 23.04.2024. Similarly, co-accused Nitin @ Tane was granted bail by the learned Additional Sessions Judge *vide* order dated 07.05.2024 and co-accused Smt. Tejashari Devi was also admitted to bail by this Court *vide* order dated 14.08.2024. However, the present petitioner's first and second bail application were dismissed by the learned Additional Sessions Judge *vide* orders dated 20.05.2024 and 24.09.2024, respectively.

11. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that the version projected by the prosecution is wholly unrealistic, imaginary, and untenable in law. He further submits that the entire case of the prosecution hinges upon CCTV footages, which allegedly depicts the petitioner and the complainant entering the premises of the deceased around the relevant time.



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12. The learned counsel contends that the presence of the petitioner inside the building was recorded for a total duration of only 3 minutes and 3 seconds, during which the alleged incident is stated to have taken place on the fourth floor of the building, thus, it is humanly improbable, if not impossible, for the petitioner to have committed the offence alleged against him within such a brief span of time.

13. He submits that the prosecution primarily relies on CCTV footages, which is based on inconsistent timestamps and therefore fails to clearly establish the role of the petitioner in the commission of the alleged offence. Additionally, the prosecution has neglected to consider the Call Detail Record (CDR), which could have played a crucial role in determining the location of the petitioner at the time of the incident. Furthermore, the counsel for the petitioner has emphasized the presence of broken glass pieces and broken bangles at the crime scene, for which the prosecution has failed to offer any plausible explanation regarding their presence.

14. The learned counsel submits that there are no eyewitnesses to the alleged incident, and the prosecution has failed to establish any credible motive on the part of the petitioner for committing the alleged offence of murder, as the petitioner had no prior acquaintance with Mahavir or any other family member of the deceased, which clearly demonstrates that the petitioner had no motive to commit the murder of the deceased.

15. He further submits that the prosecution has cited 30 witnesses in the Charge Sheet, of whom only 2 have been examined thus far. The



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trial is, therefore, likely to take considerable time and the petitioner is already languishing in custody for about two and a half years, thus, with no probability of trial being concluded in near future, he prays that the petitioner be enlarged on bail.

16. The learned counsel submits that the parents of the petitioner have recently suffered serious accidents, his mother on 06.03.2025 and his father on 14.04.2025, and are presently undergoing treatment at the Employees State Insurance Corporation Model Hospital & PGIMSR, New Delhi. It is submitted that both parents have sustained grave injuries and, in the absence of any other immediate family member to attend to them, the presence of the petitioner is urgently required to ensure their care and well-being.

17. The learned counsel further contends there is no recovery of any murder weapon being done at the instance of the petitioner and that he has clean antecedents. Furthermore, all three co-accused, namely Jitesh Gupta, Nitin @ Tane, and Smt. Tejashvari Devi have already been admitted to bail. Since the petitioner also stands on the same footing as the co-accused and, therefore, is equally entitled to the benefit of regular bail on parity with the co-accused persons.

18. *Per contra*, the learned Additional Public Prosecutor (APP), strenuously opposing the grant of bail to the petitioner, submits that the plea of parity is inapplicable in the present case, as the petitioner stands on a distinct and graver footing vis-à-vis the co-accused persons. While the co-accused persons have been charged under



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Section 120B IPC for conspiracy, the petitioner is specifically charged under Section 302 IPC for the actual commission of the murder.

19. The learned APP submits that the deceased was the tenant of the co-accused person, Jitesh Gupta. Further, the co-accused Tejashwari Devi, post the altercation with the deceased, went to the shop of the co-accused Jitesh Gupta and narrated the whole incident, wherein, Mahavir and Tejashwari Devi were determined to eliminate the deceased. Thereafter, Jitesh Gupta along with the other co-accused persons hatched the conspiracy to eliminate the deceased.

20. The learned APP further submits that CCTV footage reveals the petitioner entering the premises of the deceased, at about 16.59.14 hours on 13.11.2022, in the company of co-accused persons, namely, Mahavir and Nitin, wherein, Mahavir was carrying the alleged weapon (*danda*) used for commission of offence in a gunny bag. She submits that the petitioner came out at around 17.02.17 hours, thus, the duration of their stay inside the building, approximately four minutes, is sufficient, given the nature of the injuries, to commit the offence. It is also emphasized that the timing of the entry of the petitioner closely coincides with the approximate time of death of the deceased, thereby giving rise to strong and grave suspicion regarding the involvement of the petitioner. Further, the petitioner and the co-accused Nitin were identified to be switching the jacket, thereby, raising more suspicion on their contribution in the commission of the offence. On these grounds, she submits that the petitioner is not eligible for grant of bail.



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21. Having heard the learned counsel for the petitioner and the learned APP for the state, the allegation against the petitioner is that he, in conspiracy with co-accused persons, participated in the murder of the deceased.

22. The case of the prosecution is that the family members of the deceased, namely co-accused Tejashwari Devi and Mahavir, were fed up with the conduct of the deceased, who had a drinking problem and frequently quarreled them. A regular quarrel took place, three days prior to the commission of the offence, leading to the intervention of the maternal uncle. Subsequently, the family of the deceased stayed at the house of a friend of Jayanti.

23. The prosecution further alleges that the co-accused persons, in conspiracy with the petitioner, planned to eliminate the deceased. A perusal of the record reveals that co-accused Jitesh Gupta introduced the family members of co-accused Nitin, and later, he introduced the petitioner to the family members of the deceased, who were allegedly determined to eliminate the deceased.

24. The case of the prosecution rests substantially on CCTV footages which purportedly capture the petitioner and other co-accused persons, namely, Mahavir and Nitin entering the premises of the deceased on 13.11.2022, carrying the weapon (*danda*) in a gunny bag, and exiting a few minutes later. Furthermore, the petitioner and the other co-accused persons were in close contact both prior to and following the occurrence of the incident and the petitioner and co-accused Nitin were seen exchanging the jacket after the commission



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of the offence. The CDR of 13.11.2025 clearly indicates that the petitioner and the co-accused were in continuous telephonic communication before, during, and after the commission of the alleged offence.

25. It is an admitted case that on 14.11.2022, at around 11 a.m., the deceased was found lying in the pool of blood and was brought dead at the Bhagwan Mahavir Hospital, Pitampura, as recorded *vide* MLC No. 3038/2022.

26. It is further not in dispute that the petitioner was not known to the deceased or his family members, still his alleged presence at the scene of crime at the relevant time is to be explained, which is a matter of evidence.

27. Having regard to the stage of the trial, wherein the material witnesses are yet to be recorded, this Court is of the considered opinion, that possibility to tamper with evidence and to influence the witnesses cannot be ruled out, if petitioner is granted bail, at this stage.

28. Moreso, the principle of parity is not attracted in the present case, as the other co-accused are stated to be charged only for conspiracy whereas the involvement of petitioner, as alleged, goes to the execution of the alleged offence. The submissions made on behalf of the petitioner are essentially factual in nature, which directly touch upon the merits of the case of the prosecution and are required to be tested through the rigours of evidence before the learned Trial Court.



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29. In light of the facts and circumstances of the case, at this stage, no ground has been made to enlarge the petitioner on bail, however, the petitioner shall be at liberty to approach this Court with a successive bail application, if there is any material change in the circumstances.

30. Accordingly, the present Bail Application stands dismissed.

SHALINDER KAUR, J

APRIL 30, 2025/KP

[Click here to check corrigendum, if any](#)