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

+ **BAIL APPLN. 3943/2024**

SUNIL @ JHALKU

.....Petitioner

Through: Appearance not given.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State.
SI Anuj Mor, PS Khyala.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **28.04.2025**

1. This hearing has been done through hybrid mode.
2. The present application under Sections 483 read with 528 of the BNSS(Section 439 read with 482 of the Cr.P.C.) seeks regular bail in case FIR no. 132/2020 under Sections 304/34 of the IPC, registered at PS Khyala.
3. It is the case of the prosecution as per the status report dated 18.11.2024 authored by Insp. Vinod Ahlawat, SHO, PS Khyala, New Delhi, that on 14.02.2020 at about 02:35 P.M., an information was received at PS Khyala, New Delhi from Guru Govind Singh Govt. Hospital, Raghubir Nagar, New Delhi regarding one Ajay (deceased) having been brought dead *vide* MLC No. 65420/2020. The body was stated to be found lying on the road in front of House no. M-262, Raghubir Nagar, New Delhi in an unconscious condition. It is further submitted that there were injuries on the left cheek and the left side of the forehead.



4. As per the case of the prosecution, a footage from the CCTV camera installed near the place where the body was found showed that there were three boys who were fighting with the deceased and they were beating him. Thereafter, the complainant, i.e., the father of the deceased identified all the three accused persons namely Devender, Deepak, including the present applicant, Sunil @ Jalku. It is further the case of the prosecution that during the investigation, the statement of one witness was recorded stating that she had seen 4 Nepali boys drinking and on her threatening them, they left the place fighting with each other and out of the 4, three were quarrelling and beating one Nepali boy.

5. Chargesheet in the present FIR stands filed and the trial is at the stage of prosecution evidence.

6. Learned counsel appearing on behalf of the applicant submits that two other co-accused persons namely Devender and Deepak have already been granted bail by the learned Trial Court. It is further submitted that the CCTV footage relied upon by the prosecution is disputed in as much as there is no source of the said CCTV footage shown in the chargesheet.

7. Attention of this Court has been drawn to DD No. 10-A, in which it has been recorded that during inquiry, camera which was installed at House no. M-262, Raghubir Nagar, New Delhi was not in a working condition, therefore, no CCTV footage could be retrieved. It was further recorded that no external injury could be seen on the body of the deceased. It is further submitted that as per the post-mortem report the cause of death is blunt impact on the liver of the deceased. It is pointed out that the deceased had a drinking habit which has come in the statement of his wife as well. It is further submitted that it is the case of the prosecution that the applicant alongwith



other two co-accused persons were drinking with the deceased.

8. *Per contra*, learned APP on instructions from the Investigating Officer submits that in the CCTV footage, the applicant has been seen giving a kick on the abdomen of the deceased. On a pointed query, it is submitted that as per the chargesheet, there is no mention of the specific source from which the CCTV footage has been retrieved.

9. As per the Nominal Roll dated 23.11.2024, filed by Superintendent of Prisons, Central Jail no. 1, Tihar, New Delhi, as on 22.11.2024, the applicant has been in custody for 2 years 10 months and 24 days and he was given interim bail from 25.05.2021 to 07.04.2023 and he did not misuse the liberty granted to him. Further, the applicant has no previous involvement in any other previous offence.

10. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 10,000/- with one surety of the like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.



- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
11. The application is allowed and disposed of accordingly.
12. Pending application(s), if any, also stands disposed of.
13. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 28, 2025/kr/Pc

Click here to check corrigendum, if any