



\$~54

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

+ **BAIL APPLN. 3923/2025**

RISHANT

.....Petitioner

Through: Mr. Himanshu Saxena, Ms. Palak Jain, Mr. Manish Kumar and Mr. Aditya Joshi, Advocates

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State with Ms. Sunita Jonwal, Adv. along with SI Ram Singh and SI Ambika.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

% **28.11.2025**

1. By way of this application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 793/2023, registered at Police Station Shahbad Dairy, Delhi, for the commission of offence punishable under Sections 302/34 of the Indian Penal Code, 1860 (hereafter 'IPC').
2. The brief facts of the present case are that at around 8:00 PM on 02.09.2023, the complainant Rajkumar's neighbour had informed him about a quarrel involving Akhilesh (the deceased). When the complainant had come out of his house, he had seen the applicant/accused, along with several associates, all armed with *dandas*, iron rods, and chains, assaulting Akhilesh and his mother Rani. When the complainant had attempted to intervene, he too had been beaten by the accused persons and had sustained injuries, pursuant to which he had made the present complaint.



3. Investigation revealed that on a day in August 2023, one Rohit was standing outside the house of his brother-in-law Anil @ Anni when co-accused Aman @ Lalla had arrived there and begun abusing and using foul language. When Anil @ Anni had objected, Aman had started abusing him as well. Angered by this conduct, Anil had slapped him, upon which Aman had threatened that he was associated with “Majnu” i.e., the present applicant, and would deal with him later, even threatening to kill him before leaving. On 02.09.2023, Anil@Anni had gone to his jija Rohit’s house around 7:00 PM after finishing work. Shortly thereafter, co-accused Shri Kishan had arrived there with some associates. One of them had dragged Anil by his hair and started beating him. Hearing the commotion, Akhilesh (the deceased), Rohit’s neighbour, had come out and, along with Rohit, rescued Anil. Akhilesh had then warned co-accused Shri Kishan and his associates not to return. After some time, the applicant/accused had arrived at the deceased’s house along with other associates, all armed with sticks, iron rods, and chains. The applicant had struck Akhilesh on the head with a stick, and the others had jointly assaulted him with the weapons they were carrying. On hearing the noise, the deceased’s mother had come out to save her son, but she too was struck on the leg, causing serious injury. When the complainant had intervened, he was assaulted as well. The injured persons were taken to the hospital, and on 06.09.2023, Akhilesh was declared dead.

4. The learned counsel appearing for the present applicant/accused argues that the applicant has been falsely implicated in the present case. It is argued that there is no CCTV footage showing the applicant’s presence or involvement in the alleged incident. The learned counsel further submits that PW-1, the complainant Rajkumar, has turned hostile during trial and has not



named the applicant as an assailant, which creates serious doubt about the prosecution case. It is argued that the Hon'ble Supreme Court and various High Courts have consistently held that bail is an important aspect of personal liberty under Article 21 of the Constitution, and that incarceration should be an exception. According to the learned counsel, the primary consideration for grant of bail is whether the accused will be available to face trial, and in the present case, there is no apprehension of the applicant absconding or evading the process of law. It is also submitted that there is no likelihood of the applicant tampering with evidence or influencing witnesses. On these grounds, it is prayed that the applicant be released on bail.

5. The learned APP for the State, on the other hand, opposes the bail application and argues that the alleged offence is grave in nature and has resulted in the death of a young man. It is argued that the Call Detail Records of the applicant establish his presence at the scene at the relevant time. The learned APP further points out that PW-2, PW-3, and PW-4 have fully supported the prosecution case and have categorically named the applicant as one of the assailants who had assaulted the deceased and the other victims. It is additionally contended that there is a genuine threat to witness safety, as the father of the deceased has informed the learned Trial Court that the remaining two eyewitnesses are unwilling to appear due to threats to their lives. The MLCs of the deceased, his mother, and the complainant also corroborate the injuries sustained in the assault. The learned APP further argues that the weapon used in the offence has been recovered at the instance of the applicant. In view of these circumstances, it is prayed that the applicant be not granted regular bail.



6. This Court has heard arguments addressed by the learned counsel for the applicant/accused and the learned APP for the State, and has perused the material on record.

7. The present incident has its origin in a quarrel that took place between Anil @ Anni and co-accused Aman @ Lalla, which later escalated into a physical assault. It has been alleged that the deceased, Akhilesh, had been beaten by the present applicant/accused and his associates and had been later taken to the hospital, where he was declared dead on 06.09.2023 due to the injuries sustained in the assault.

8. Though it is clear that PW-1, the complainant Rajkumar, has turned hostile before the learned Trial Court, this Court however notes that PW-2, Rani, the mother of the deceased, in her testimony has clearly deposed that the applicant/accused, along with his associates, had assaulted her son. PW-4 has also deposed that when he had reached the spot, he had seen the applicant/accused and others beating the deceased with a wooden stick and an iron chain, and that the mother of the deceased was also struck when she had tried to intervene. Similarly, PW-3, Anil @ Anni, has deposed that the applicant/accused and his associates had come to his sister's house, dragged him by his hair, and assaulted him, and that when the deceased and others attempted to help, they too were beaten and sustained serious injuries.

9. This Court also notes that the wooden stick used in the commission of alleged assault was recovered at the instance of the applicant herein. Further, the Call Detail Records of the applicant's mobile number 88*****26 reveals that he was present at the spot of incident at the relevant time.

10. It has also come on record that the applicant/accused is involved in another criminal case arising out of FIR No. 612/2021, which shows that he



has criminal antecedents. Notably, during the examination of PW-4, the father of the deceased had informed the learned Trial Court that the remaining two eyewitnesses were not coming forward to depose due to threats to their lives, and the learned Trial Court had to direct the SHO concerned to take steps to ensure their presence. These circumstances indicate a real and reasonable apprehension that the witnesses are under threat and are hesitant to depose freely.

11. In *X v. State of Rajasthan: 2024 SCC OnLine SC 3539*, the Supreme Court has held that in serious offences such as murder, the courts should be slow in entertaining bail applications once the trial has commenced and witnesses have begun to be examined.

12. The Hon'ble Supreme Court, in *Brijmani Devi v. Pappu Kumar: (2022) 4 SCC 497*, has held as under:

“25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused.”

13. Considering the nature and seriousness of the offence, the testimonies of material witnesses, the recovery of the alleged weapon at the instance of the applicant/accused, the CDR location placing him at the spot of commission of incident, the existence of criminal antecedents, and the



apprehension regarding the safety of witnesses, this Court is of the view that no ground is made out for grant of bail.

14. Accordingly, the present bail application is dismissed.

15. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

16. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 28, 2025/A/VS