



2025:DHC:2784



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 22.04.2025

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BAIL APPLN. 4121/2024**MOHSIN @ TOTAL**

.....Petitioner

Through: Mr. Rashid Hashmi, Advocate

versus

STATE GOVT.OF NCT OF DELHI THROUGH SHO

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with SHO/Inspector Ram Manohar
and Inspector Anant Kiran, PS Subzi
Mandi**CORAM: JUSTICE GIRISH KATHPALIA****JUDGMENT (ORAL)**

1. The accused/applicant, suffering incarceration since 23.08.2017, seeks regular bail in the case FIR No. 195/2017 of PS Subzi Mandi for the offence under Section 302/201/120B/34 IPC. Broadly speaking, the FIR was registered on 07.08.2017 on the basis of a Daily Diary entry disclosing recovery of a dead body. Subsequent to the registration of FIR, followed by seizure of the necessary articles from the spot of occurrence, where no eye witness was found, the matter was kept under investigation and till that stage, body was not identified. Subsequently, one TSR driver visited the police station and informed the Investigating Officer that on the night

*Bail Application No. 4121/2024**Page 1 of 3 pages*GIRISH KATHPALIA
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intervening 06.08.2017 and 07.08.2017 at about 03:30am, in the Hindu Rao Hospital parking, he overheard Yasin @ Gilli, Mohsin @ Total (*the accused/ applicant*), Deepak @ Kartik and Anil talking amongst themselves that they had killed Ganju and defaced his dead body and they now should burn away the clothes of the deceased as well. It is on the basis of this statement of that TSR driver, the Investigating Officer arrested the accused persons.

2. Learned counsel for accused/applicant submits that he is innocent and has been falsely implicated in this case.

3. The learned APP assisted by the Investigating Officer/Inspector Anand Kiran submits that the evidence against the accused/applicant is the statement of that TSR driver and recovery of the baseball bat (*weapon of offence*) at the instance of the accused/applicant from bushes.

4. Certain perplexing questions arise in this case. *Prima facie*, it is difficult to believe that after committing murder, the assailants would so casually and explicitly discuss about the offence at a public place, which would be overheard by the TSR driver and the TSR driver would then visit the police station to make his statement. Secondly, as per prosecution, the accused/applicant threw his blood stained clothes in Yamuna river; and that being so, it remains unanswered as to why would the accused/applicant preserve the weapon of offence in bushes instead of throwing that also in the



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river. Further, the said TSR driver in his testimony as PW2 has not supported prosecution.

5. However, I must add a cautious rider that the above observations are only *prima facie* in nature and shall have no bearing at the final stage of the trial.

6. Considering the above circumstances, I find no reason to further deprive the accused/applicant liberty.

7. The application is allowed and it is directed that the accused/applicant be released on bail subject to furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the trial court.

8. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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**GIRISH KATHPALIA
(JUDGE)**

APRIL 22, 2025/as