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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4164/2024 & CRL.M.A. 34296/2024**
MOHD ANSARPetitioner

Through: Mr. Rishipal, Advocate.

versus

THE STATE OF NCT DELHIRespondent
Through: Mr. Amit Ahlawat, APP for State.
Inspector Mohinder Kumar, P.S.
Shahbad Dairy.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **27.01.2025**

1. The present application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 439 of Criminal Procedure Code, 1973²), seeks grant of regular bail in FIR No. 436/2020 dated 31st August, 2020, under Section 302 of the Indian Penal Code, 1860³, at P.S. Shahbad Dairy. Subsequently, on 13th December, 2020, a chargesheet was filed under Sections 302, 396, 412, 379, 411, 120B and 34 of IPC.

2. Briefly, the case of the prosecution is as follows:

2.1. On 31st August, 2020, a call was received at the P.S. Shahbad Dairy, informing them about a dead body lying near K.D. Model School, Shukar Bazar, at a vacant DDA Land, Delhi, about 300 metres from Barwala Red

¹ "BNSS"

² "CrPC"

³ "IPC"



Light, on the side of a road which leads to Heliport. This call was entrusted to ASI Vats Raj for taking necessary action. He reached the spot and found a body of a deceased male, aged about 41 years, lying on the spot. The body had injuries on the mouth and blood was oozing out from the face, chest and from other parts. The dead body was identified as one Pardeep Kumar Jindal, son of Bhim Sen Jindal. The post mortem was conducted on 31st August, 2020, *vide* Post Mortem No. 722/2020, after which the body was handed over to the deceased's family.

2.2. On the same day, the statement of one Mukesh, who was employed at the shop of deceased, was recorded, wherein he stated that on 30th August, 2020, at around 07:00 PM to 07:30 PM, he went to Barwala Village with the deceased on the scooty/two-wheeler of the deceased. On their way, the deceased purchased a SIM card from a shop⁴ situated in front of HDFC Bank and thereafter, Mukesh got down at Barwala Red Light. During investigation, the shopkeeper of the SIM shop was interrogated and he confirmed that on 30th August, 2020, the deceased purchased an 'Airtel' SIM card from his shop. Subsequently, CCTV footage from the cameras installed at the SIM shop was inspected, which revealed that some 2-3 persons were seen roaming near the shop at the time when the deceased purchased the SIM card.

2.3. On 16th September, 2020, based on secret information, the present Applicant, i.e., Mohd. Ansar, along with another co-accused Rajesh @ Muneel were apprehended while they were on a motorcycle bearing registration no. DL 10 SE 5657. Furthermore, during the personal search of the Applicant, INR 22,000/- were recovered.



2.4 During interrogation, co-accused Rajesh @ Muneel stated that he was previously an employee of the deceased, and he hatched a conspiracy with his friends i.e., the Applicant and other co-accused namely Suchit @ Golu, Daulat @ Chintu, Vishal @ Vikas and Rahul.

2.5. On 29th August, 2020, the accused persons had visited the shop of the deceased, but found the same to be closed. Thereafter, they reached the shop again and when the deceased and his employee Mukesh left the shop, the accused persons followed them on motorcycles. When the deceased was purchasing the SIM, co-accused Suchit @ Golu and Vishal @ Vikas had kept an eye on him. Thereafter, the deceased left the SIM shop and dropped Mukesh at Barwala Red Light, after which, he stopped to urinate at a deserted place near Heliport and parked his scooty on the side of the road. At this point, all of the accused persons, who were following the deceased on their motorcycles, stopped nearby and approached the scooty of the deceased, however, the keys were not present in the scooty. After this, the accused persons caught hold of the deceased, who tried to escape, and co-accused Suchit @ Golu held the hands of the accused along with the other co-accused.

2.6. During the scuffle, Daulat @ Chintu hit the deceased on the mouth with a stone, while Rahul stabbed him in the neck with a knife. Then, Rahul and Vishal @ Vikas took the keys of the deceased's scooty and Vishal @ Vikas, along with Rajesh @ Muneel, fled away on the scooty of the deceased while the remaining co-accused, including the Applicant, also ran away on their motorcycles.

2.7. After reaching a deserted area in Sukhbir Nagar, near Hanuman

⁴ "the SIM shop"



Temple, the accused persons stopped and searched the boot of the scooty, where they found a plastic bag containing a large amount of cash, along with some documents and two mobile phones. A tiffin, also found in the boot of the scooty, was thrown away in the nearby bushes by Daulat @ Chintu. Subsequently, the accused persons left the scooty at the same spot and reached a park situated at Prashant Vihar, where they broke the deceased's mobile phones with the help of bricks. When the accused persons reached Karnal Bypass, they discarded the documents, diary and mobile phones in the drain.

2.8. After this, the accused persons distributed the looted amount amongst themselves, in which the present Applicant received an amount of INR 1,10,000/-. During interrogation, it was disclosed that the amount recovered by the police from the accused persons was the amount which they had looted from the deceased.

2.9. Upon further investigation in the matter, a photo copy of the deceased's PAN card, along with a Cheque issued in the name of Om Steel, was recovered on the instance of the accused persons. Further, DVRs from two different locations of Village Barwala were taken by the police, which after analysis of the footage, revealed that the co-accused Suchit @ Golu and Vishal @ Vikas were found present at the SIM shop, prior to the incident.

2.10. Applicant's involvement in the crime is established on the basis of a mobile phone, which was found in the possession on the Applicant on the date of his arrest. The CDR analysis of the recovered phone reveals that on 30th August, 2020, Applicant's location between 08:02 PM and 08:27 PM, was noted near the same area where the deceased was present – i.e., at Puth



Khurd and Barwala. The CDR further indicates, that prior to the commission of the offence, a call was made between the Applicant and co-accused Suchit @ Golu for a duration of 118 seconds.

3. Against the above factual background, counsel for Applicant makes the following submissions seeking grant of regular bail:

3.1. Counsel for Applicant submits that the Applicant has been in custody since 17th September, 2020. Since then, only 16 witnesses have been examined, out of a total of 35 witnesses cited by the prosecution and as such, the trial is likely to take some time. Counsel submits that investigation *qua* the Applicant is complete, the chargesheet has been filed against him. Furthermore, charges have been framed by the Trial Court and all material public witnesses have been examined in the case.

3.2. Additionally, counsel for Applicant submits that other co-accused persons in the present case have already been granted bail by this Court. In this regard, he submits that on 09th July, 2024, co-accused Vishal @ Vikas secured regular bail in Bail Appln. 1684/2024, on 05th August, 2024, co-accused Rajesh @ Muneel secured regular bail in Bail Appln. 1431/2024 and on 28th October, 2024, co-accused Suchit @ Golu and Daulat @ Chintu secured regular bail in Bail Appln. 3051/2024 and Bail Appln. 3340/2024, respectively. In light of the above, counsel submits that the Applicant's case is better situated than the other co-accused, and he should be granted regular bail on the grounds of parity.

3.3. The counsel urges that Applicant's earlier regular bail application was dismissed by the ASJ without appreciating the facts and circumstances of the case. He urges that the Applicant is a law-abiding citizen of India and has been falsely implicated in the present case. Moreover, since the



examination and cross-examination of the material public witnesses has already concluded before the Trial Court, there exists no reasonable apprehension of the Applicant tampering with the evidence and no purpose will be served by keeping the Applicant in custody any longer.

4. On the other hand, Mr. Amit Ahlawat, APP for the State, strongly opposes the present bail application on the following grounds:

4.1. In the present case, the murder of the deceased has been committed by in a pre-planned manner, in pursuance of a deep-rooted conspiracy amongst the accused persons.

4.2. The case of the Applicant is different from the other co-accused who have been granted bail. CDR analysis of the mobile phone recovered from the Applicant, indicates that he was at Puth Khurd and Barwala, between 08:02 PM and 08:27 PM on 30th August, 2020. Moreover, there has been a recovery of INR 22,000/- in cash, as well as a motorcycle bearing registration no. DL 10 SE 5657, from the possession of the Applicant. After investigation, it has been found that this recovered motorcycle was also used in the commission of the crime.

4.3. The allegations against the Applicant are grave in nature and in case the Applicant is released on bail, he may commit other similar serious offences in order to take revenge on the family of the deceased or to intimidate the witnesses. As of now, in the present case, 16 out of 35 prosecution witnesses have been examined. Furthermore, the Applicant has prior criminal antecedents and an FIR bearing No. 207/2019, has been filed against him under Section 21 of the NDPS Act, at P.S. Crime Branch.

4.4. So far, as is evident from the nominal roll dated 10th December, 2024, the overall jail conduct of the Applicant is also found to be unsatisfactory. In



light of the above, there exists a high likelihood that the Applicant may not attend the proceedings before the Trial Court and abscond, if he is enlarged on bail.

5. The Court has considered the aforementioned contentions of the parties. It is noted that the Applicant has been in custody, as an under-trial, for over 4 years, since he was apprehended on 16th September, 2020, while the other co-accused involved in the crime have been granted bail by this Court. As such, the Applicant seeks regular bail primarily on the ground of parity. In order to understand the role of the Applicant, as against the other co-accused admitted on bail, the Court deems it appropriate to refer the Status Report dated 15th January, 2025, filed by the State, wherein the following tabulation is presented:

<i>“Petitioner’s Name</i>	<i>Role as per disclosure statement (No eyewitness)</i>	<i>Recovery</i>	<i>CDR Location</i>	<i>Presence in the CCTV Footage</i>
<i>Rajesh @ Muneel</i>	<i>Searched the pocket of deceased</i>	<i>Rs. 9,000/-</i>		<i>No</i>
<i>Chintu @ Daulatram</i>	<i>Hold the hands of deceased at the time of robbery, attacked with stone, took away the scooty of the deceased</i>	<i>Rs. 18,000/- photocopy of Aadhar Card of deceased, one stolen M/Cycle No. DL8SBH7455</i>		<i>No</i>
<i>Suchit @ Golu</i>	<i>Hold the hands of deceased at the time of robbery</i>	<i>Rs. 21,000/-</i>	<i>Found nearby place of occurrence</i>	<i>Yes</i>
<i>Vishal @ Vikash</i>	<i>Searched the pocket of deceased and took out key of scooty.</i>	<i>Rs. 25,00/-</i>		<i>Yes</i>
<i>Md. Ansar (Present petitioner)</i>	<i>Hold the hands of deceased at the time of robbery</i>	<i>Rs. 22,000/-</i>	<i>Found nearby place of occurrence</i>	<i>No</i>
<i>Note:- One filled check leaf and copy of Pan Card of deceased Pradeep Jindal were recovered on the instances of accused Rajesh @ Munil, Md. Ansar and Chintu from</i>				



bushes near ring road Badli village on 17.09.20.”

6. As can be noted from the above, the allegations against the present Applicant are similar to the allegations against co-accused Suchit @ Golu, who has already been granted regular bail by this Court *vide* order dated 28th October, 2024. The allegation against Suchit @ Golu, was that he held the hands of the deceased at the time of the robbery and that there has been a recovery of Rs. 21,000/- from him. Further, the CDR analysis *qua* Suchit @ Golu also indicates that he was present near the place of occurrence. Thus, the role of Suchit @ Golu has been found to be similar to the role of the Applicant, except for the key difference being that Suchit @ Golu's presence has been found in the CCTV footage, whereas the Applicant's presence has not been found in the said footage.

7. As far as the contention regarding recoveries effected from the Applicant is concerned, it is found that similar facts were also noted by this Court in the orders dated 28th October, 2024, whereby this Court had granted bail to the co-accused Suchit @ Golu as well as Daulat @ Chintu. Therefore, there is *prima facie* merit in the submission of the Applicant that he ought to be granted bail on the grounds of parity.

8. It is well established, through a catena of judgments by the Supreme Court, that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial⁵. Furthermore, the Court must be mindful of the fact that the Applicant has spent a considerable amount of time in custody as an under-trial (for a period of more than 4 years) and at present,

⁵ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of*



the trial is at the stage of prosecution evidence.

9. The Court notes that the conduct of the Applicant, while in custody has not been satisfactory, however, in the opinion of this Court, these aspects can be taken care of by imposing stringent conditions on the Applicant while granting him bail.

10. In light of the above, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- along with two sureties of the like amount, subject to the satisfaction of the Trial Court, on the following conditions:

- a. The Applicant shall cooperate in any further investigation in the case, as and when directed by the concerned IO;
- b. The Applicant shall not engage in any criminal activity. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

Investigation, (2022) 10 SCC 51.



g. The Applicant shall report to the concerned IO each week on Monday at 4:00 PM and shall not be kept waiting for more than an hour.

11. In the event of there being any FIR/ DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and shall not be taken as an expression of opinion on the merits of the case.

13. The bail application is allowed in the aforementioned terms.

SANJEEV NARULA, J

JANUARY 27, 2025/as