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

+ **BAIL APPLN. 4265/2024**

SUHAIL @ SAHIL

.....Petitioner

Through: Mr. Mayank Bhargava, Mr. Kartikeye Dang and Mr. Rasdeep Saraf, Advocates.

Petitioner appears from Central Jail no. 1, Tihar (through VC).

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State with Insp. Muneesh Kumar, PS Ambedkar Nagar.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

14.08.2025

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1. Under incarceration for the most more than 4 years and claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of regular bail during pendency of the trial in the criminal proceedings arising out of FIR No.383/2021 dated 02.06.2021 for alleged offences under Sections 34, 302 of IPC, registered at P.S. Ambedkar Nagar. Subsequently, Sections 25, 27 of Arms Act, 1959 were added in the chargesheet.

2. Per FIR, prosecution/complainant (informer) case is that on 01.06.2021, at approximately 6:30 PM, the eyewitness/complainant Dushyant @ Dipanshu Pachauri, was standing outside his house when his friend Kunal (victim), aged 19 years, invited him to accompany him to



purchase a cake for his father's birthday. The complainant agreed, and they both left on the complainant's Scooty.

2.1 After buying the cake, while returning, at approximately 8:30 PM, the accused, known to the complainant viz. Gaurav (co-accused no. 4) and Sameer (co-accused) picked up a fight and obstructed their path. Gaurav forcibly pulled the victim off the Scooty, causing the complainant to lose balance and fall. Subsequently, Gaurav began stabbing the victim with a knife, while Sameer assaulted him with repeated kicks and punches.

2.2 At this juncture, two more accused, Sahil (petitioner/accused) and Roop Kishore @ Bhola (co-accused no.3), arrived at the scene with knives, inciting Gaurav to "finish him off." Thereafter, petitioner and co-accused nos. 3 and 4 proceeded to stab the victim, while Sameer (co-accused) continued physically assaulting him. The attackers fled as bystanders began to gather at the scene.

2.3 The victim sustained knife wound to his neck and was bleeding profusely. In panic, he informed victim's brother, Ravi, who, along with a friend, Ankush, transported victim on the complainant's Scooty to Max Hospital. Despite medical intervention, victim succumbed to his injuries.

3. In the aforesaid factual backdrop, learned counsel for the petitioner contends that the triple test for grant of bail is satisfied. The complainant (PW1) and other private witnesses have already been examined, leaving no possibility of influencing evidence. The relevant material evidence has been seized and is in the custody of the Investigating Officer and the Court, precluding any chance of tampering. Additionally, the petitioner is 21 years old and resides with his family, comprising his father, mother, two brothers, and one sister, and therefore does not pose a flight risk.



3.1 He would also argue that one knife allegedly used in the offence was recovered at the instance of co-accused Shiv Kumar @ Babloo, who was granted bail by the learned ASJ *vide* order dated 31.10.2023. He would contend that the petitioner's case is demonstrably stronger, as no recovery was made from him. It would also be argued that co-accused Nikhil Nagar, who was absconding for two months, was granted bail by the learned ASJ on 18.11.2023.

3.2 He argues that the petitioner had no role in the commission of the alleged offence. PW1 initially turned hostile and, in his statement, admitted that he did not see the petitioner armed or stabbing the victim. PW1's identification of the petitioner in court was after cross-examination, raising the possibility of tutoring. Moreover, the dying declaration attributed to the victim implicating the petitioner is contradicted by PW2 and PW3, who transported the victim to the hospital and stated that nothing transpired en-route. The CCTV footage obtained from PW7's residence was not described in the chargesheet, and its genuineness has not been verified, with PW7 turning hostile regarding its functioning and FSL analysis. Even the impugned order dated 28.08.2024 acknowledges that the petitioner can merely be seen standing at the spot while others were stabbing, which is inconsistent with PW1's statement.

3.3 He would lastly submit that the petitioner has clean antecedents. The petitioner has been in custody since 02.06.2021 and has already undergone a period of incarceration of 4 years, 2 months, and 12 days. It would also be argued that the trial of the present case is at a nascent stage and is likely to take considerable time to conclude. He would also contend that despite proceedings spanning over the last two years since 25.02.2023, only 13 out



of 29 witnesses have been fully examined, four witnesses have been partly examined due to the pending FSL report, and 12 witnesses are yet to be examined.

4. Opposing the above submissions, the learned APP for the State argues that the applicant does not deserve any indulgence given the heinous nature of crime and the role attributed to him. She would submit that the bail application of the applicant was rightly dismissed *vide* order dated 28.08.2024 passed by the learned Sessions Judge and she would rely on the reasons contained therein and submits that there has been no material change of circumstance ever since passing of the aforesaid order. Accordingly, she would seek dismissal of the bail application.

5. Having considered the rival contentions and perused the case file, I am of the view that the present matter is fit for grant of bail. Let us see how.

6. It transpires that as per the statement of co-accused Ravi, the mastermind of the entire crime in question was one Mr. Nikhil Nagar, who has been accorded the concession of bail *vide* order dated 18.11.2023 which is on record as part of the additional documents filed by the petitioner that apart another co-accused, namely, Shiv Kumar has also been accorded bail meted out with similar treatment *vide* another dated 31.10.2023.

7. Given the role attributed to the applicant herein, though the learned counsel representing the applicant submits that he stands at much lesser footing, be that as it may, assuming it on the same footing, I am of the view that on grounds of the parity as well the applicant is deserving of bail at this stage.

8. Aside above, the star prosecution witness PW1, stated to be an eye witness, has also not supported the version of the prosecution. He has given



evasive answers viz when the incident was taking place he did see some of the boys physically assaulting the deceased, but he cannot identify them. He also now states that he abandoned his scooter and ran away from the scene of occurrence.

9. Adverting further, no recovery was made from the applicant, whereas the knife was recovered from co-accused Shiv Kumar @ Babloo, who is on bail; similarly, co-accused Nikhil Nagar, has also been granted bail. PW1 initially turned hostile, admitting he never saw the petitioner armed or stabbing the victim. The dying declaration is contradicted by PW2 and PW3, while the CCTV footage remains unverified and disowned by PW7.

10. The trial is moving at snail's pace. The applicant at 21 years old and living with his family, the petitioner poses no flight risk

11. Further continued incarceration would serve no useful purpose, especially when the trial is not likely to conclude in the near future. A prolonged pre-trial detention becomes punitive even before conviction, and violates the fundamental rule i.e. bail is the rule and jail the exception, particularly when the accused does not pose a flight risk or a threat to the integrity of the trial.

12. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

13. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial



shall proceed without being influenced either way by the same.

14. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 14, 2025/kd/rs