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

+ **BAIL APPLN. 4349/2024**

DEEPAK KUMAR

.....Petitioner

Through: Mr. Pradeep Rana, Mr. Kartik Gadi,
Mr. Abhishek Rana, Mr. Ankit Rana,
Advs.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
Insp. Rajendra Singh, SHO Narela, SI
Mahender Patel, PS Narela.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

03.02.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 439 of the Cr.P.C) has been filed for the grant of regular bail in case FIR No. 463/2021 registered at P.S. Narela under Sections 302/307 of the IPC.
3. The case of the prosecution as per the status report dated 29.01.2025 is as under: -

“1. The brief facts of the case are that a PCR cali vide DD No.109 dt.06/10/21 regarding two injured persons in the accident was received from SRHC hospital at PS Narela Delhi. On receiving the information ASI Rajender along with staff reached at spot Lampur border, Narela, from there 10 got to know that injured were already shifted to SRHC Hospital and 10 went to Hospital, where he received the (1) MLC No. 5122/21 of Sandeep S/o Karambir age 23 years (2) MLC No. 5121/21 of Arvind S/o Shiv Ram age 28



years and (3) MLC No. 5118/21 of Punit S/o Kala Age 17 years, the injured Punit was declared brought dead by the doctors. On other two MC's the doctor mentioned as A/H/O RTA. The dead body of the deceased punit was sent to Mortuary BJRM Hospital Jahangir Puri Delhi for conducting Post Mortem. The other two injured were not found present in the hospital. Thereafter 10 reached at the spot ie. Lampur Delhi Haryana Border and the spot was got inspected from the crime team, exhibits were seized and vehicle No. DL2W-4890 Gramin Seva taken into police custody.

2. Later, statement of the injured Sandeep was recorded who stated that he along with his friends Punit were present near Lampur Border bus stand where one Deepu R/o Nahri Village came with his above said vehicle and started abusing since they are all from the same village and some petty quarrels were taken place among them earlier too. They both started having "Gol Gappe" from the nearby stall at Lampur Border meanwhile above said Deepu again came with the above said vehicle, again abused them and threatened to see them and thereafter he drove above said vehicle towards them in very high speed He smashed both of them including the owner of the Gop Gappe stall from that vehicle. They were taken to the SRHC Hospital by complainant's brother Ajay, at hospital Punit was succumbed to his injuries. On the above said statement a case vide FIR No. 463/21 U/s302 IPC has been registered and investigation was taken up.

3. During the course of the investigation, evidence was collected, statements of witnesses under Section 161 CrPC were recorded. The statements of complainant's brother Ajay and one another person Manjeet, who took the injured persons to the hospital, were also recorded. They stated that on the way to the hospital, Sandeep informed them that Deepak@Deepu had intentionally hit them with his vehicle. Post Mortem of deceased Puneet was got conducted at BJRM Hospital Vide PM No. 925/21, in Pm report, Autopsy Surgeon mentioned that **cause of death is hemorrhagic shock as a result of abdominal injury due to blunt force/object impact. All injuries are ante mortem in nature.** After the post-mortem, sealed evidences, which were handed over by the surgeon was taken into police custody. These pieces of evidences were sent to the FSL along with other evidence. 4. On 07/10/2021, On 07/10/21, accused Deepak Kumar @ Deepu, S/o Samay Singh, R/o House No. 782-B, Village Nahri, District Sonapat, Haryana, after informing him about the circumstances of the case. Based on



evidence justifying his arrest in the case, the accused was formally arrested in present case.

5. On 15/10/21, information vide DD No. 118A was received at PS Narela, Delhi, that the complainant in the case, who was admitted to Safdarjung Hospital, had passed away during treatment. Subsequently, Post Mortem of deceased Sandeep S/o Karamveer was got conducted vide PM No. 2477/21. And PM report of the deceased Sandeep was obtained, in which autopsy Surgeon stated that the cause of death was "due to cerebral damage consequent to blunt force impact to the head. All injuries are ante-mortem in nature and could be possible in a case of road traffic accident." After the post-mortem, sealed evidences, which were handed over by the surgeon was taken into police custody. These pieces of evidences were sent to the FSL along with other evidence.

6. After completion of the investigation, a chargesheet was filed before the concerned Hon'ble Court against the accused under Sections 302/307 IPC. Charges against the accused U/S 302/307 IPC were framed by Addl. Sessions Judge North, Rohini. The case is at Prosecution Evidence stage and out of total 29 PWs, 8 PWs have been examined so far. NDOH in the case is fixed for P.E. 30.01.2025. One of the Material witnesses Ajay Kumar S/o Karambir reiterated the facts stated in his 161 Cr.P.C statement and fully supported the case of prosecution. Part of the testimony of witness Ajay Kumar is mentioned below:

"On 06.10.2021 at about 6:00 P.M. to 6:30 P.M. / was going towards my vilage Nahari from Narela. I saw that public persons were gathered at the spot. I was in my white colour Breeza car bearing registration no. HR 10 AB 8104. I stopped my car, step down. I saw that my brother Sandeep, Puneet and third person namely Arvind were lying on the road. They were injured Manjeet was also present there. I with the help of Manjeet took all the three injured to SHRC Hospital. On the way Sandeep told us that Deepak Kumar @ Deepu S/o. Sh. Samay Singh who are residents of our village i.e. Narhari had scuffled with them and he (Deepak) reversed his Gramin Sewa and after that accelerated the vehicle and struck them, as a result of which they sustained injuries. Puneet declared brought dead in the hospital and my brother Sandeep was shifted to Safdarjung Hospital. After 10-12 days Sandeep got expired in the hospital.""



4. Learned counsel appearing on behalf of the applicant submits that the injured witness, namely Arvind who was examined as PW-6, did not support the case of the prosecution with regard to the role of the present applicant. It is further submitted that another witness namely Manjeet (PW-3) who called the PCR and had taken both the deceased persons *i.e.*, Puneet and Sandeep to the hospital along with the brother of Sandeep *i.e.*, Ajay had denied the case of the prosecution that on the way the deceased Sandeep had stated to his brother Ajay that the present applicant had reversed his Gramin Seva and after accelerating the same, it had struck both the deceased persons and PW-6 *i.e.*, Arvind.

5. Attention of this Court has been drawn to the testimony of the PW-3, Manjeet who had stated that all injured persons were unconscious. Insofar as the testimony of the PW-4 namely Ajay, *i.e.*, brother of Sandeep, is concerned it is pointed out that the date of the incident was 06.10.2021 and the statement under Section 161 Cr.P.C. was recorded on 15.10.2021 despite the fact that he was present at the hospital when the present FIR was registered.

6. It is also pointed out that PW-7, *i.e.*, Vinod Kumar who is the owner of Gramin Sewa, the vehicle in question, testified in the Court that the present applicant was not in possession of the vehicle on 07.10.2021. It is further submitted that all the public witnesses have been examined and the applicant is in custody since 07.10.2021 and does not have any previous involvements.

7. *Per contra*, learned APP for the state submits that the vehicle in question has been inspected and the report shows that the vehicle was damaged and the fact that PW-7, *i.e.*, Vinod Kumar who is the owner of the Gramin Sewa vehicle had stated that the present applicant was a helper



connects the applicant with the said vehicle. It is also stated that the MLC Report further records the presence of Ajay (PW-4) at the SHRC Hospital when his brother Sandeep was taken by him from the spot to the said hospital and, therefore, the testimony of Ajay cannot be disregarded.

8. Heard the learned counsel for the parties and perused the records.

9. Admittedly, the injured eye-witness Arvind (PW-6) who was taken to the hospital along with the deceased Sandeep and Puneet has deposed to the effect that he does not identify the applicant as the driver of the Gramin Sewa vehicle which caused the accident. The other witness *i.e.*, Ajay, PW-4, the brother of the deceased Sandeep has also been examined whose testimony has been challenged on the ground of delay in recording of statement during investigation. Manjeet (PW-3) has also not supported the case of the prosecution. The veracity of these statements will be looked into by the learned Trial Court at the time of the final disposal of the trial. The applicant has been in custody since 07.10.2021 and out of 29 witnesses 11 have been examined. It is also stated that he is not involved in any of the previous offences.

10. In totality of the facts and circumstances, the application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50.000/- with one surety of 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 stand 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

FEBRUARY 3, 2025/kr/sc

Click here to check corrigendum, if any