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

+ **BAIL APPLN. 4702/2024**

MUSTAFA

.....Petitioner

Through: **MR. Sanjib Dutta and Mr. Chirantan
Saha, Advs.**

versus

THE STATE NCT OF DELHI

.....Respondent

Through: **Ms. Shubhi Gupta, APP for the State.
Insp. Ravinder Dagar, PS KNK Marg,
Rohini.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

17.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS seeks regular bail in case FIR No. 150/2021 under Section 302 of the IPC registered at PS K.N.K. Marg.
3. Status report dated 10.03.2025 is handed up in Court today and the same is taken on record. The case of the prosecution as per the status report dated 10.03.2025, authored by Insp. Pramod Anand, SHO, P.S. K.N.K. Marg, Rohini is as under: -

“2. It is submitted that on 10/4/2021 an information was received at PS KNK Marg Delhi, vide DD No. 40A that "House No.-729, Near Excellence School, Resettlement Colony, Sector-26, Rohini, Delhi ke anderek lady) Mrit (dead) avastha me hai" which was marked to SI Yogesh Dahiya No. D-768 for necessary action, who along with Ct. Nitin No.-2932/RD reached the spot, where at the first floor of the house a female dead body was found on the bed in the pool of blood in the inverted position. On enquiry deceased was identified



as Shakila @ Munni W/o Mohammad Murtaja R/o House No.-729, Near Excellence School, Resettlement Colony, Sector- 26, Rohini, Delhi, Age-46 years. There were sharp and deep wounds over her face and other body parts. The dead body was inspected by the District Mobile Crime Team and FSL Rohini team and later on preserved at mortuary BSA hospital, Rohini, Delhi. On 11.04.2021 Post Mortem of the dead body was conducted vide PM No.- 247/21 and exhibits which were preserved by Autopsy surgeon were also taken into police possession through seizure memo.

3. During investigation, on 11.04.2021 on suspicious namely Mohd. Mustafa S/o Mohammad Murtaja R/c H. No.-729, Resettlement Colony. Near Excellence School, Sector-26, Rohini, Delhi Age-22 Years (step son of deceased Shakila) was called at PS for interrogation and during sustained interrogation he disclosed his involvement in the present case and he disclosed that in 2015 he came to know that his step mother Shakila @ Munni was in illicit relationship with some person. He took advantage of the same and started making illicit relationships with her step mother. For the last 4-5 years both were in illicit relationship. On the day of incident i.e. 10.04.2021 the accused Mustafa reached at home demanded sexual favour from his step mother deceased Shakila @ Munni but she denied for the same as for the last two-three months she was trying to escape from this relationship and continuously avoiding the accused by not fulfilling his sexual desire. The accused was already annoyed with his step mother for her changed behaviour. On 10/04/21, the accused was pre-determined that if his step mother ignored him this time then he will definitely kill her. On the day of incident, when he tried to make physical relations with his step mother and she flatly denied for the same he took knife from the kitchen and stabbed multiple times near the left ear and other body parts. Thereafter accused was arrested in the present case. In his disclosure statement, he disclosed that when he got sure that she is no more then he left the house and thrown his clothes and knife in drain near sector-11, Rohini, Delhi.

4. Later on the case property i.e two knives which were used by the accused have been recovered on the instance of the present accused person. The accused person was appeared in CCTV footage nearby the place of occurrence on the same time/day of incident and CDR of mobile phone of the accused person also suggested the presence of the present applicant.



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6. It is to mention that weapon of offence i.e. recovered blood stained knives were sent to FSL and as per FSL report, the DNA profile of blood on knife matches with DNA of the deceased/victim of the case.
7. The chargesheet in the above case has already been filed in the Hon'ble court on 09.07.2021 and presently the case is at the stage of Prosecution Evidence. Next day of hearing is 21.04.2025”

4. Learned counsel appearing on behalf of the applicant submits that the entire case is based on the disclosure statement of the present applicant. It is stated that the recovery relied upon by the prosecution is on 13.04.2021, however, he was arrested on 11.04.2021. It is submitted that in the circumstances, the only connection of the present applicant with the offence is the doubtful recovery of the knives which is the matter of trial. It is further submitted that despite the fact that the place of the recovery is the house of the applicant which was in a densely populated area, no independent witness was present at the time of the alleged recovery and seizure. It is further submitted that despite the knife being sent to the FSL, there is no report with regard to the finger prints on the same. It is further submitted that the prosecution has cited 34 witnesses out of which 4 have been examined and the trial is not likely to be completed in near future.

5. *Per contra*, learned APP appearing on behalf of the State on instructions of the Investigating Officer submits that the recovery of the knives was affected from the roof of the house of the applicant on 13.04.2021. It was pointed out that initially the applicant had stated in his first disclosure statement that he had thrown the knives in the drain however, his subsequent confessional statement led to the recovery of the knives as pointed out hereinabove. It is submitted that the CCTV footage as well as the CDR of the



mobile phone of the applicant also shows his presence at the spot.

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

7. Admittedly, the facts mentioned in the status report reproduced hereinabove are based on the disclosure statement of the present applicant. The body of the deceased was found in the house comprising of 3 floors which was used as a residence by the deceased, her husband and 5 children including the present applicant. The applicant was arrested on 11.04.2021 and the alleged recovery of the knives is shown to be on 13.04.2021 from the roof of the house of the applicant. So far as, the CCTV footage and the CDR of the mobile phone are concerned, it is not the case of the prosecution that the applicant was not residing at the said address. The matter is at the stage of prosecution evidence, the prosecution has cited 34 witnesses however only 6 have been examined out of which 4 have been examined and 2 have been dropped by the prosecution. The applicant is not involved in any other previous offences.

8. As per the nominal roll dated 21.01.2025, the applicant has been in judicial custody since 11.04.2021, which brings his custody period to approximately 3 years 11 months presently.

9. In the totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, subject 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.
10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. 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.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 17, 2025/kr/sc

Click here to check corrigendum, if any