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

+ **BAIL APPLN. 4786/2024**

MONU SHARMA

.....Petitioners

Through: Mr.Gajraj Singh and Ms.Sakshi
Sachdeva, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State.
SI Vipin Kr. PS Prashant Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

08.04.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS has been filed seeking regular bail in case FIR No. 10/2020, under Sections 365/364A/302/396/419/468/471/201/120B/34 of the IPC, registered at PS Prashant Vihar.
3. The case of the prosecution against the present applicant as per the status report dated 01.04.2025 authored by Inspector Devendra Singh, SHO/PS Prashant Vihar, is as follows: -

“The facts of the case are that on 07-01-2020, complainant Mr. Rahul Deewan made a complaint mentioning that his brother-in-law namely Deepak Dua S/O Sh. Gurbachan Lal R/o 53, Dharam Kunj Appt. Sec. 9, Rohini, Delhi went to Noida, UP on 06.01.2020 for LIC work and did not come back. Complainant is in apprehension that someone has kidnapped him. On this complaint, a case vide FIR No. 10/20, dt 07.01.2020, U/s 365 IPC was registered at PS Prashant Vihar, Delhi and investigation was taken up. During the investigation, on 17.01.2020 an information regarding recovery of dead body of Shri



Deepak Dua with hands tied through cloth from a canal was received from PS Buland Shahar (UP). Postmortem of the deceased was got conducted in Buland Sahar (UP). Accordingly, sections were added in this case. On the basis of CDR, Crime Branch, Delhi Police arrested four accused persons namely Sandeep, Vinod Kumar, Sunny and Monu (the present applicant) in above said case and later on, their two more associates namely Sanjay and Shiv @ Chanderpal @ Chote were also arrested. The accused persons including Sunny @ Adarsh Kumar disclosed that they have kidnapped and committed the murder of Deepak Dua and disposed of his dead body in Buland Sahar, UP.

Sequence of events-

The accused persons namely Vinod Kumar, Sandeep, Sunny and Monu (the present applicant) were known to each other and were facing financial constrain due to less income. Hence, they planned to extort money from any financially sound person who can easily fall prey to their evil design. Hence, the name of the deceased was finalized by them who was known to one of the accused person Vinod Kumar as the deceased has done his LIC Policy. To accomplish their evil design, accused persons including the applicant (accused Monu) arranged one fake driving license in the name of Amit and obtained two mobile No. 7533915053 & 7534986065 along with two keypad mobile phones from Mr. Ram Kumar who run a mobile phone in the name of Chaudhary Mobile Centre at Koshi Kalan, UP. Thereafter, on 02.01.20, they got recharged the above-mentioned mobile number from Saidpur Village, Kharkhoda, Haryana. All the above accused persons including the applicant (Accused Monu) decided that they will use only these fake mobile number in order to communicate with each other and will not use their personal mobile phone numbers while committing crime in question. Thereafter, to execute their plan, on 03.01.20, one of accused person namely Vinod called the deceased on his mobile phone and desired to meet him on the pretext of getting LIC policy and called him at Nangloi Metro Station on 04.01.2020 and after that he switched off both the fake numbers. In order to get a safe place, the accused persons also included another person named Sanjay in the conspiracy who worked in a warehouse named Mohan DJ located in Dariyapur. The accused persons assured Sanjay of his share if he helps them to keep the deceased at his DJ Godown until they don't get the money. The deceased reached at the Nangloi Metro Station on 04.01.20 and according to the plan, the accused person Vinod took the deceased at Mohan DJ Godown, Dariyapur where all the accused also reached but in the meantime, the owner of the Mohan



DJ Godown Sh. Hitesh Bhardwaj came there and started enquiring. On this the accused persons got suspicious and changed their plan by saying that it is not safe place to keep the kidnapped person and then returned with Deepak Dua. Next day on 05.01.2020, they made a plan to kidnap the deceased from Noida UP and got involved their other associates Shiv @ Chanderpal @ Chote who was local resident from Noida UP. The accused Vinod Kumar again called the deceased and asked him to come to Noida Last Metro Station in morning on 06.01.2020 where he was kidnapped by the accused persons and they demanded a sum of Rs 25 lacks from the deceased for his life but deceased Deepak Dua failed to fulfil their demand. Thereafter, accused persons took him to a remote area in car and brutally murdered him. All the accused persons were arrested in this case and after conclusion of investigation, Charge sheet against all the accused persons was filed before the LD trial Court.

Role of applicant Monu Sharma-

That the applicant accused Monu Sharma was actively involved with other accused persons of kidnapping and murder of Deepak Dua. When the plan for ransom did not get materialized, the applicant accused Monu brutally murdered the deceased with the help of other accused persons. In order to commit the murder, when one of the accused strangled the deceased, the applicant/ accused held the hands of the deceased so that he did not struggle much during the strangulation. When the deceased did not die even after this, the applicant/ accused pulled the deceased out of the car where accused Vinod hit the deceased on the head with a baseball bat. As a result of this extreme torture, the deceased got died. Thereafter, the applicant/accused disposed of the dead body in a canal with the help of his other associates.

Recovery of articles and Evidence against accused-

1. The one Gold Ring worn by the deceased recovered from the applicant/accused's house at H. No. G-46, Nihal Vihar, Delhi.
2. The said recovered Ring from the applicant/accused was correctly identified by the wife of the deceased during the TIP.
3. The shoes which were wore by the applicant accused Monu Sharma were also recovered from his possession.
4. The Baseball bat (weapon of offence) was also recovered on his instance.
5. The PW 5 Correctly identified that applicant was present at his mobile shop with his associates to purchase sim cards and mobile on the basis of Fake DL.



6. The PW 2 clearly stated in her statement that her husband worn two rings in hand at the time of missing, one was recovered from the body of deceased and second was identified by the PW 2 during the TIP as recovered from applicant/ accused Monu.

7. Statement of Hitesh Bhardwaj recorded U/s 164 CrPC clearly admitted that he saw the accused Monu with his associates at his godown.

8. The Examination report of FSL has clearly established that the accused was present at the place when they brutally murdered an innocent person and dumped his body in the canal, as the soil sample from his shoe clearly matches with the control soil from the place where the deceased was murdered.”

4. Learned counsel appearing on behalf of the applicant submits that the case is based upon circumstantial evidence and there is no eye-witness to the alleged incident. It is submitted that PW-7/Hitesh Bhardwaj at whose office the deceased was last seen with accused persons on 04.01.2020 has not supported the case of the prosecution and has not identified the photograph of the deceased or the applicant or any of the co-accused persons. It is submitted that PW-5, Ram Kumar, from whose shop the SIM card and mobile phone were alleged to have been purchased, had, in his cross-examination, stated that he took the names of the accused persons and the applicant at the instance of the Police. It was further clarified by him during his deposition that he identified the applicant and the said accused persons on the basis of suspicion. So far as the recovery of the ring is concerned, it is pointed out that the applicant was arrested on 22.01.2020 and the ring was shown to be recovered on 01.02.2020, i.e., after a delay of 9 days. It is also pointed out that, in the *panchnama* of the dead body prepared on 17.01.2020, wherein it was mentioned that the dead body was having a ring embedded with a stone in the right hand. In view of the same, it is pointed out that the recovery of the ring, subsequently, has been shown to implicate the present applicant in the present



case.

5. Similarly, it is submitted that the arrest of the applicant was made on 22.01.2020 and the shoes worn by him, at the time of alleged incident, were recovered from his house on 01.02.2020, i.e., after a delay of 9 days. It is further pointed out that the alleged weapon of offence, i.e., baseball bat, which has been recovered is also a joint recovery, and thus, hit by Section 27 of the Indian Evidence Act, 1872.

6. Finally, it is submitted that the applicant has been in judicial custody since 22.01.2020 and out of 36 witnesses cited by the prosecution, only 9 have been examined so far. The material witnesses with respect to the present applicant have been examined. It is further submitted that the applicant was released on interim bail and without misusing the liberty granted to him, he duly surrendered on time. It is also pointed out that co-accused, Sanjay, has been granted bail by a Coordinate Bench of this Court in BAIL APPLN. 1601/2021 *vide* order dated 03.07.2023.

7. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, has argued on the lines of the status report and submitted that the prosecution of the present applicant is based on the ring of the deceased recovered from him, which has been identified by his wife/PW-2. He further submitted that PW-5 has also identified the applicant, along with other co-accused persons, to whom he sold the SIM Card, which was used by the co-accused, Vinod, who made the call to the deceased. It is also pointed out that samples of soil from the shoes of the present applicant were matched with soil samples from the place of incident.

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

9. Admittedly, PW-7, who as per the case of prosecution had last seen the



deceased with the co-accused persons including the present applicant, had not supported the case of the prosecution. The other circumstantial evidence relied upon by the prosecution has been challenged on grounds of various discrepancies as pointed out by learned counsel for the applicant, it has been submitted that in the cross-examination of PW-5, clearly a doubt has been created with regard to the identification of the present applicant. Similarly, it has been submitted that the recoveries of the ring as well as shoes had taken place after a substantial period of time, after the arrest of the present applicant. The appreciation of the aforesaid evidence is a matter of final adjudication by the learned Trial Court, however, these discrepancies cannot be ignored, at this stage, for the purposes of the present bail application. It is noted that the prosecution has cited 36 witnesses and out of those, only 9 have been examined so far. All the material witnesses *qua* the present applicant have been examined. On a pointed query from the Investigating Officer, it has come on record that the applicant is not involved in any other offences, and regarding a query with regard to the connection of the alleged recovery of baseball bat, it is submitted that there is no evidence to connect the said bat with the alleged incident.

10. As per nominal roll dated 20.02.2025, the applicant has undergone incarceration for 5 years 19 days which brings his custody period to approximately 5 years 4 months. It is further noted that the applicant was granted interim bail from 28.02.2024 to 05.03.2024 and he had duly surrendered on time without misusing the liberty granted to him.

11. In the totality of the facts and circumstances of the case, the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with two sureties 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.
12. The application is allowed and disposed of accordingly.
 13. Pending applications, if any, also stand disposed of.
 14. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made herein are only for the purpose of the present bail application.
 15. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
 16. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 8, 2025/bsr/ns

Click here to check corrigendum, if any