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

+ **BAIL APPLN. 391/2026**

KASIM

.....Petitioner

Through: Mr. Soibal Gupta, Mr. Yash Tiwari, Mr. Sadab Salmani, Mr. Sutanuka Chatterjee, Mr. Suresh Kumar, Mr. Surendra Singh, Mr. Jitendar, Ms. Riya Kapil, Advs.

versus

STATE OF (NCT OF DELHI)

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP
Insp. Amit Kumar, PS Badarpur
Mr. Neeraj Kumar, SC, for
DHCLSC

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.05.2026

1. By way of this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks regular bail in connection with FIR 263/2022, dated 16.06.2022, lodged at Police Station Badarpur, under Section 302 of the Indian Penal Code, 1860 ["IPC"].

2. I have heard Mr. Soibal Gupta, learned counsel for the petitioner, Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor, and Mr. Neeraj Kumar, learned Standing Counsel for Delhi High Court Legal Services Committee, who was requested to assist the parents of the



deceased *vide* order dated 15.04.2026. Mr. Chauhan has also placed a status report on record.

3. The prosecution case, as emerging from the status report, is as follows:

- A. The FIR was registered on the complaint of the father of the deceased, who stated that his son left the house on 11.06.2022 in the morning and had not returned till 12.06.2022. Upon search, alongwith police, the dead body of the deceased was found at 1:00 PM on 12.06.2022.
- B. The complainant suspected the involvement of the present petitioner who resides in the same locality, as an altercation had taken place between the petitioner and the deceased on 10.06.2022.
- C. The statement of the complainant was recorded on 16.06.2022, who, *inter alia*, stated that the deceased and the petitioner were seen together on the morning of 11.06.2022.
- D. The petitioner was apprehended and arrested on 16.06.2022. He was found to have scratches on his body for which purpose MLC was conducted.
- E. According to the prosecution, the petitioner confessed his involvement in the murder of the deceased and stated that the injuries were sustained during the scuffle between the petitioner and the deceased.
- F. The prosecution case is that the petitioner and the deceased met on 10.06.2022, and consumed narcotics. A scuffle took place between them due to a stolen phone. They thereafter again met at the same location on 11.06.2022. The petitioner had carried scissors from his



barber shop and attacked the deceased with scissors, upon the deceased threatening him with a knife. The prosecution also relies upon a supplementary disclosure statement of the petitioner dated 17.06.2022, in which he allegedly disclosed that when the deceased fell, the petitioner put his knee forcefully on the throat of the deceased, took the phone of the deceased, and left the spot.

G. The scissors in question were recovered from the petitioner's barber shop.

H. The phone of the deceased was handed over by the petitioner to the deceased's aunt, Sahira, who has disclosed in her statement under Section 164 of the Code of Criminal Procedure, 1973, that she has disposed of the phone.

I. CDR analysis revealed that the phone of the deceased was traced to the location of the incident at about 11:00 PM, and the phone of the petitioner was switched off approximately from 08:00 AM on 11.06.2022 until 13.06.2022.

J. In the post-mortem report, the cause of the death of the deceased is stated as "*fatal compression over the neck*"

4. During the course of hearing, Mr. Chauhan pointed out an apparent discrepancy in the nominal roll submitted by the Jail Authority. The period of custody of the petitioner has been calculated from 18.02.2022 whereas, the parties are *ad-idem* that he was, in fact, arrested on 11.06.2022. The period of custody, is, therefore, is computed as of today, as 3 years, 10 months, and 24 days.

5. Mr. Gupta submits that the petitioner has been in custody for a period of over 3 years and 10 months, and all material witnesses have



been examined. He submits that the prosecution case linking him to the commission of the offence is inherently weak, as it is based only on the disclosure statement of the petitioner. In fact, he submits that the cause of death mentioned in the postmortem report refers to “*fatal compression over the neck*”, and indicates that viscera had been preserved to rule out concocted poison and toxins, but makes no reference to any injury with a sharp-edged weapon, such as scissors. He submits that the continued custody of the petitioner cannot be justified on the basis of this material, particularly, when only 10 witnesses out of 25 have been examined, and the trial is unlikely to conclude in the near future.

6. Mr. Chauhan and Mr. Kumar, on the other hand, oppose the bail application. They submit that the petitioner has been accused of a grievous offence, which is substantiated by the evidence of a quarrel between him and the deceased on the night before the incident. They rely upon the supplementary statement of the petitioner with regard to the ligature mark on the neck of the deceased having been caused by the petitioner’s knee, and also the CDR mentioned above.

7. Having heard learned counsel for the parties, I am of the view that it is appropriate, in the facts and circumstances of the case, to release the petitioner on bail at this stage. The petitioner has already been in custody for a period of over 3 years and 10 months, with only 10 out of 25 witnesses having been examined, the expeditious conclusion of the proceedings is therefore unlikely.

8. Although the offence in question is a very serious and grave offence, the prosecution case is largely built upon the alleged disclosure statements of the petitioner and other witnesses. The fact that the



petitioner and the deceased allegedly had a quarrel on the night of 10.06.2026 does not, by itself, establish the commission of the crime by the petitioner on the next day. The recovery of scissors at the instance of the petitioner is also *prima facie* not related to the cause of death certified by the post-mortem report. Although the complainant reported that the petitioner and deceased were seen together on 11.06.2022, the status report itself states that there is no witness to that effect. While a detailed analysis of evidence is a matter for trial, suffice it to state that the *prima facie* material in the present case does not justify further pre-trial incarceration of the petitioner.

9. In view of the aforesaid, it is directed that the petitioner will be released on bail in connection with FIR 262/2022, dated 16.06.2022, lodged at Police Station South East, Delhi, under Section 302 of the IPC, subject to furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount, to the satisfaction of Trial Court/Duty Magistrate, and subject to the following further conditions:

- a. The petitioner shall appear before the Trial Court on each and every date of hearing;
- b. The petitioner shall provide his permanent address to the Investigating Officer [“IO”]/SHO, as also the address where he will be residing during the pendency of the case. The petitioner shall intimate the IO and file an affidavit before the Trial Court, regarding any change in residential address;
- c. The petitioner shall provide his mobile number to the concerned IO/SHO, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior



intimation to the IO during the pendency of the trial;

- d. The petitioner 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;
- e. The petitioner shall not commit any offence during the period of his release.

15. The bail application is disposed of in terms of the above.

16. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

17. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

10. The *prima facie* error in the nominal roll submitted to this court is a matter of concern, particularly, with regard to the period of custody undergone. The Registry is directed to forward a copy of this order to the Director General (Prison) who is requested to look into the matter and take corrective action, if necessary.

PRATEEK JALAN, J

MAY 5, 2026

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