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

+ **BAIL APPLN. 739/2026**

AKSHAY @ GOLU

.....Applicant

Through: Mr. Mukesh Kalia, Mr. Shivam Sharma and Ms. Kanika Vohra, Advocates.

versus

THE STATE N.C.T OF DELHI AND ANR

.....Respondents

Through: Mr. Raghuinder Verma, APP for the State with Mr. Gourav Singh, Advocate

Inspector Amit Dutt and Inspector Chetan Singh, PS-Khyala.

Mr. Sanchit Sehgal and Mr. Nagendra Singh, Advocates for complainant.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

23.04.2026

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1. By virtue of this application under *Section 439* of the Code of Criminal Procedure, 1973 (**CrPC**) read with *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks grant of regular bail in FIR No.7/2021 dated 03.01.2021 registered at PS.:Khayala, New Delhi under *Sections 302/147/148/149/34* of the Indian Penal Code, 1860 (**IPC**).

2. *Briefly put*, as per FIR, on 03.01.202 at about 01:30 AM, complainant/ brother of the deceased received a call from one Nitin @ Lussy, informing him about the deceased being brutally assaulted by one

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Vicky and his associates. Upon receipt thereof, the complainant reached the spot and took the deceased to the Hospital, where he was declared 'brought dead'. Nitin further informed the complainant that Vicky owed certain money to the deceased and was making excuses to pay it back and as such, on that fateful night, when deceased along with Nitin and Pradeep went to Vicky's house to ask for the said money back, a scuffle ensued between both the parties, which resulted Vicky and his associates brutally attacking the deceased with a baseball bat on his head, resulting in his death. Thereafter, based on the statement of the complainant, the present FIR came to be registered.

3. During investigation, the co-accused persons namely, Deepak Ahirwal and Hemraj were arrested, who during interrogation disclosed the involvement of the present applicant in the murder of the deceased as well. Also, CCTV footage of cameras covering the incident were obtained, which showed the present applicant at the spot and his active involvement in the crime. Eventually, the present applicant was arrested on 02.09.2021.

4. In these facts, learned counsel for the applicant praying for release of the applicant on regular bail submits that **[i]** the applicant is a student with no prior criminal antecedents, and has been falsely implicated in the present case only on the basis of disclosure statement of the co-accused persons; **[ii]** the FIR was lodged on the basis of hearsay statement and does not contain any allegation against the applicant; **[iii]** no direct or specific allegation has been levelled against the applicant in the chargesheet; **[iv]** the prosecution witnesses, Nitin and Pradeep, in their *Section 161 CrPC* statement did not name the applicant and would not have been able to identify the applicant; **[v]** the CCTV footage of the



incident does not show that the applicant had assaulted the deceased; [vi] there are serious and material contradictions between the oral evidence and the footage of CCTV, and even the FSL report qua the genuineness of CCTV has not been filed since last more than 5 years; [vii] the prosecution failed to conduct the Test Identification Parade (TIP) for the purpose of establishing the identity and involvement of the applicant; [viii] the applicant is in custody since 02.09.2021 and investigation stands concluded with chargesheet having been filed; and lastly [ix] there are as many as sixty-two prosecution witnesses, of which, only two have been completely examined and two partly examined till date and thus, it is very likely that conclusion of trial will take time. To buttress the aforesaid contentions, learned counsel for the applicant has placed reliance upon **Deepak Tiwari v. The State NCT of Delhi : 2024:DHC:8697; Aman Gaur v. State : 2012 [1] JCC 415; Sanjay Chandra v. Central Bureau of Investigation : (2012) 1 SCC 40; Tapas Kumar Patil v. State of Chhattisgarh : SLP(Crl.) No.15971/2024; and Union of India v. K.A. Najeeb : SLP(Crl.) No.11616/2019.**

5. *Per contra*, learned APP for State, relying upon the Status Report, opposed grant of bail to the applicant. He submits that [i] the allegations against the applicant are serious in nature; [ii] as per CCTV camera footage, the applicant was present on the spot at the time of the incident and was actively involved in the murder of the deceased and had brought other assailants with him to the scene of crime; [iii] the eye-witness Nitin in his supplementary statement had duly identified the applicant and confirmed his involvement in the crime; [iv] proclamation proceedings under Section 82 CrPC were initiated against the applicant since he was



absconding; [v] the trial is at the nascent stage and if bail granted to the applicant, then he may tamper with the evidence, influence/threaten the witnesses, jump the bail and may not join the trial.

6. Learned counsel for the respondent no.2/ complainant, relying upon the written synopsis, which has been handed over and is taken on record, supported and reiterated the case of the prosecution.

7. Heard learned counsel for the parties and perused the record.

8. Though this Court is cognizant of the fact the offence alleged is grave and serious in nature, however, while deciding the present bail application due weightage must be given to the fact that the name of the applicant does not find mention either in the FIR or in the initial statements *Section 161* CrPC of the two eyewitnesses Nitin and Pradeep. Admittedly, the applicant has been subsequently brought into the picture primarily on the basis of disclosure statements of co-accused persons Deepak Ahirwal and Hemraj, and a supplementary statement of witness Nitin. Further, though as per Status Report, the applicant is stated to be visible in the CCTV footage and is actively involved in the incident, however, this Court cannot lose sight of the fact that till date no FSL report has been filed qua the genuineness thereof. Moreover, in such circumstances, the failure of prosecution to conduct a TIP is significant at this stage.

9. The applicant is a young person with clean antecedent and having a life and future ahead. He has already been in custody for more than *four and a half years* with a '*Satisfactory*' conduct while inside the jail. As per records, the trial is still at a nascent stage as only 2 witnesses out of the 62 named have been completely examined and other 2 witnesses have only



been partly examined till date. It is likely that conclusion of trial will take time. As such, taking a cumulative view of the aforesaid factors, this is a fit case for granting regular bail to the applicant.

10. Accordingly, the present application is allowed. The applicant thus be released on regular bail in proceedings arising out of FIR No.7/2021 dated 03.01.2021 registered at PS.:Khayala, New Delhi under *Sections 302/147/148/149/34* of the Indian Penal Code, 1860 subject to him furnishing a personal bond in the sum of Rs.25,000/- [*Rupees Twenty Five Thousand Only*] along with one surety of the like amount by a family member/ friend having no criminal case pending against him/ her and subject to the satisfaction of the Jail Superintendent, and further subject to the following conditions:

- i. Applicant shall not leave NCT of Delhi without prior permission of this Court and shall ordinarily reside at the address as per prison records. If he wishes to change his residential address, he shall immediately intimate about the same to the IO by way of an affidavit.
- ii. Applicant shall surrender his Passport, if any, to the IO, within a period of *three days*.
- iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not be switch off or change the mobile number without prior intimation to the IO concerned. Mobile location be kept on at all times.



- v. Applicant shall report to the IO at PS: Khayala once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.
- vi. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.
11. The present application is disposed of in terms of the aforesaid.
12. Copy of this order be sent to the concerned Jail Superintendent for information and compliance.
13. Needless to say, expression of view(s) on the merits involved, if any, are solely for the purposes of adjudication of the present bail application and shall have no bearing on the overall case/ trial involved.

SAURABH BANERJEE, J

APRIL 23, 2026/NA/GA