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

+ **BAIL APPLN. 802/2026 & CRL.M.A. 6164/2026**

RAJESH KUMAR

.....Petitioner

Through: Mr. Vikas Sharma, Ms. Manvi Rajvanshy, Ms. Tripta Choudhary, Mr. Kunal Saini & Mr. Rohan Gupta, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State. Ms. Neha Singh, Mr. Rohit Singh, Rahul Vats, Ms. Pooja Sharma, Ms. Aastha Chaturvedi, Mr. Prashant Vaibhav, Advocates for the victim.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

24.02.2026

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1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 35/2026, registered at Police Station Janakpuri, Delhi, for the commission of offence punishable under Section 105/238(6)/61(2)/3(5) of the Bhartiya Nyaya Sanhita, 2023 (hereafter '*BNS*').

2. Briefly stated, the facts of the present case are that the FIR in question was registered on receipt of a PCR call on 06.02.2026, informing that a motorcycle rider had fallen into a deep pit and was in need of immediate assistance. Upon receipt of the said information, police officials reached the



spot, i.e. B-3B, near Andhra School, Janakpuri, New Delhi, where they found a young boy along with his motorcycle lying inside a pit measuring about 20 feet in length, 13 feet in width and about 14 feet in depth, which had been dug in the middle of the road. During the course of investigation, it was revealed that the said pit had been dug by the Delhi Jal Board (DJB). With the assistance of officials from the Fire Brigade, the injured boy was taken out of the pit and shifted to Deen Dayal Upadhyay Hospital; however, he was unfortunately declared brought dead. Thereafter, the Crime Team and the FSL Team were called at the spot, and investigation in the present case is being carried out.

3. The learned counsel appearing for the applicant submits that the applicant was taken into custody on 06.02.2026 at about 8:00 p.m. and was produced before the learned Magistrate beyond the stipulated period of 24 hours, as he was produced only on 08.02.2026. It is further argued that the applicant had appointed a guard, i.e. co-accused Yogesh, to look after the site and had taken all necessary precautions, including installation of cautionary boards and barricades. It is argued that there is no material on record to show that the applicant was present at the site at the time of the incident, nor is there any material to suggest that he had prior knowledge of any imminent danger or that he had committed any intentional omission with respect to safety measures. It also contended that all relevant documentary evidence is already in the possession of the Investigating Officer (I.O.) and, therefore, no useful purpose would be served by keeping the applicant in further judicial custody. On these grounds, it is prayed that the applicant be granted regular bail.



4. *Per contra*, the learned APP for the State, along with the learned counsel appearing for the victim, has vehemently opposed the bail application. It is submitted that DJB had issued a contract dated 09.10.2025 in favour of KKSIL–O Liner JV. During the course of investigation, a copy of a work order dated 27.06.2025 was recovered, which had been issued by KKSIL–O Liner JV in favour of Trimurti Associates, the firm of the present applicant, for rehabilitation of peripheral sewer lines in the Janakpuri area, prior to even award of work order/contract dated 09.10.2025 in favour of KKSIL. It is further submitted that immediately after the incident, co-accused Yogesh was seen covering the spot with barricades and curtains on the road instead of informing the concerned authorities. The CCTV footage of the spot, it is argued, clearly reveals that no precautionary or safety measures were in place at the time of the incident. It is further contended that co-accused Yogesh had informed the present applicant about the incident at around 12:22 a.m., and thereafter, the applicant informed co-accused Himanshu Gupta through a WhatsApp call at approximately 01:56 a.m.. The learned APP further argues that the Call Detail Records (CDRs) and other material collected during investigation indicate that the applicant had visited the site after the incident and, instead of making any effort to save the life of the victim who had fallen into the pit, was primarily engaged in attempting to conceal his lapses. It is alleged that green curtains were placed around the pit containing the body of the deceased so as to prevent the body from being noticed or traced by the public. Lastly, it is argued that the investigation is still at a nascent stage and that, if the applicant is released on bail at this stage, there is a strong apprehension that he may influence material witnesses or tamper with the evidence. Accordingly, it is



prayed that the bail application be dismissed.

5. This Court has **heard** arguments addressed on behalf of the applicant as well as the State and the victim, and has perused the material on record

6. In the present case, this Court notes that the applicant is allegedly the sub-contractor to whom the work relating to rectification of peripheral sewer lines in Janakpuri had been entrusted by the main contractor. On the fateful day of the incident, a pit measuring about 20 feet in length, 13 feet in width and about 14 feet in depth had been dug at the site.

7. The contention raised on behalf of the applicant that the digging work was carried out during day time and that a security guard had been deputed at the site, and therefore it was the duty of the guard to ensure that no accident took place, deserves to be rejected outrightly. Even as an alleged sub-contractor, the applicant was under an obligation, as per the terms of the sub-contract, to ensure safety measures at the site. It is a matter of common knowledge that if such a deep pit is dug in the middle of a road without adequate safety measures such as cautionary boards, barricades, blinkers or warning signage, there will be a high likelihood that a vehicle, passer-by or an animal may fall into it. The loss of life in the present case cannot be brushed aside as a mere accident, and it was clearly a preventable loss of life. Merely deputing a *chowkidar* at the site, in the absence of basic and mandatory safety measures, cannot absolve the applicant of responsibility and instead must attract the rigours of law.

8. The CCTV footage, as noted by the learned Trial Court also, discloses conduct of an even graver and shocking nature on the part of the applicant. Even after being informed and noticing that the victim had fallen into the



pit, the applicant did not inform the police and, regrettably, did not even arrange for medical assistance, which ought to have been the immediate response of any responsible person. Instead, the material on record suggests that the applicant was more concerned about shielding himself and informing his superior, i.e. the primary contractor and co-accused Himanshu Gupta, rather than making any genuine effort to save the life of the victim. The call to the police was eventually made by a lady passer-by. In the absence of any equipment at the site to deal with such an emergency, the victim could not be rescued in time, and by the time he was taken to the hospital, he had unfortunately succumbed to his injuries.

9. In the opinion of this Court, the present case is not one of only negligence, and the fact and circumstances also *prima facie* indicate knowledge on the part of both the sub-contractor and the contractor that such acts and omissions were likely to result in a serious accident. Taking a lenient view in such circumstances would send a disturbing message that the lives of citizens of Delhi can be compromised and are not valuable enough to warrant strict adherence to safety norms and contractual obligations, whether by the contractor, the sub-contractor or the concerned authorities.

10. It is further noted that the digging work was carried out in clear violation of the permission granted by the Traffic Police *vide* order dated 05.01.2026, which specifically stipulated that excavation work could be undertaken only during the night hours between 22:00 hours and 06:00 hours, and that proper signage, warning boards and barricading were required to be installed at the site. The work was also in violation of the primary conditions of the contract, which mandated that appropriate



machinery be available at the site to rescue any person falling into the pit and that a first-aid kit be readily accessible. Contrary to these requirements, the applicant, along with the primary contractor, failed to comply with these conditions and, instead of focusing on saving a young life that required immediate attention, appears to have prioritised his own protection.

11. The investigation in the present case is still at an initial stage, and the co-accused persons are yet to be arrested. Considering the seriousness of the case, and for the reasons mentioned above, this Court finds no ground to grant bail to the applicant herein at this stage.

12. The bail application alongwith pending application, is dismissed.

13. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

FEBRUARY 24, 2026/R/A

T.D.