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

+ **BAIL APPLN. 951/2026**

SH. BALKISHAN

..... Applicant

Through: Mr. Anurag Singh and Mr. Anil Bhati, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Raghuinder Verma, APP with Mr. Aditya Vikrama Singh and Ms. Upasna Bakshi, Advs. with Insp. Sudhir Kr., PS: Chhawla
Mr. Sarthak Karol, SC (DHCLSC) with Ms. Neelakshi Bhadauria & Mr. Shashank Sharma, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.05.2026

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1. By virtue of the present application under *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*BNSS*), the applicant seeks grant of regular bail in FIR No.255/2021 dated 02.06.2021 registered at PS.: Chhawla, New Delhi for offences punishable under *Sections 302/307/34* of the Indian Penal Code, 1860 (*IPC*).

2. As per FIR, the complainant/ wife of the deceased reported that on 02.06.2021 around 02:00 PM, three unknown men, aged 25-30 years came to their house on the pretext of taking a room on rent. While speaking with her husband, they suddenly overpowered him. On her intervening, she was taken to the kitchen, tied, gagged, and assaulted with the intent to kill. Shortly thereafter, the said three persons fled from the spot. After freeing



herself, since she found her husband unconscious, she called the neighbours, who informed her sons and the deceased was taken to the Hospital, where he was declared brought dead. Later, the complainant also received medical treatment for her injuries at RTRM Hospital. Police reached the spot, conducted inspection with the forensic team, collected exhibits, and obtained medical reports from RTRM Hospital. Based whereon, the present FIR came to be registered.

3. During investigation, the post-mortem was conducted *vide* PM Report No. 153/21, and exhibits including clothes, masks, chunni, and other articles were seized as also the CCTV footage showing three accused persons fleeing post the incident was collected and duly sealed from Unique Montessori Public School. Upon identification by one of the witness, namely Resham in CCTV footage, two accused persons namely Yogesh Sharma and Rohit Kumar were arrested on 04.06.2021. Later, the present applicant was also arrested on 10.06.2021. All accused persons made disclosure statements and recoveries of clothes worn by them at the time of incident were affected. Lastly, Test Identification parade (**TIP**) was conducted, wherein the complainant correctly identified the applicant herein, while other accused persons refused to undergo TIP.

4. Hence, the present application seeking regular bail.

5. Mr. Anurag Singh, learned counsel for the applicant primarily submits that the applicant has been falsely implicated in the present case and there is no material available on record to link the applicant either to the present case or the co-accused persons. He further submits that the complainant/ PW-2, during her cross-examination before the learned Trial Court dated 02.04.2025, categorically stated that prior to the TIP



proceedings, she had been shown the photograph of the applicant by the police officials, thereby rendering the TIP of no value. Lastly, he submits that since out of *forty six (46)* prosecution witnesses only *six (6)* have been examined till date and the applicant has been in judicial custody since 10.06.2021 i.e. more than *four years and ten months* as on date, conclusion of trial is likely to take some time, hence, the applicant deserves to be enlarged on bail.

6. *Per contra*, Mr. Raghuinder Verma, learned APP for the State has handed over a copy of details of Interoperable Criminal Justice System (*ICJS*) *qua* the applicant, which is taken on record. As per this the applicant is stated to be involved in another FIR. He, relying upon the Status Report submits that the applicant does not deserve to be released on bail as the allegations are serious and grave in nature for offences under *Sections 302/307/34* of the IPC as also since he has been correctly identified by the complainant in TIP, establishing his direct involvement in the present offence. Lastly, the post mortem report confirms the cause of death due to asphyxia caused by ante mortem manual strangulation, sufficient to cause death in ordinary course of nature, thereby corroborating the prosecution version of homicidal death.

7. Mr. Sarthak Karol, learned standing counsel of DHCLSC appearing for the complainant has also handed over a copy of the written synopsis, which is taken on record. Supporting the case of the State, he submits that the applicant does not deserve to be released on bail as TIP is not a substantive piece of evidence, in fact, is only a corroborative piece of evidence.



8. This Court has heard the learned counsel for the parties as also perused the documents available on record.

9. Though this Court is mindful of the fact that the allegations levelled against the applicant are grave and serious in nature and the discretion of grant of bail ought to be exercised judiciously, however, that the applicant is not named in the FIR and his involvement primarily hinges upon identification in the TIP proceedings, and that the complainant/ PW-2, during her cross-examination dated 02.04.2025 has categorically stated that “... ..it is correct that photocopy of photograph of accused Balakishan @ Bablu was shown to me by the police prior to his TIP proceedings... ..”, which, *prima facie*, casts a shadow of doubt in the mind of this Court *qua* the case set up herein, are all relevant factors for consideration at this stage.

10. Moreover, there is no dispute that the applicant has been languishing inside jail since more than *four years and ten months* as on date, as also out of the *forty six (46)* prosecution witnesses only *six (6)* witnesses have been examined till date, and the conclusion of trial is likely to take some time and will lead to continued incarceration of the applicant. Whence the investigation in the matter is complete and material witnesses have been examined, the same is unwarranted.

11. As such, considering the overall facts and circumstances involved herein, this Court is inclined to grant regular bail to the applicant herein.

12. Accordingly, this Court directs the applicant to be released on regular bail in FIR No.255/2021 dated 02.06.2021 registered at PS.: Chhawla, New Delhi for offences punishable under *Sections 302/307/34* of the IPC on him furnishing a personal bond in the sum of Rs.50,000/-



along with one surety of the like amount by family member/ friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- a) Applicant shall not leave the NCT of Delhi without prior permission of the concerned Court and shall ordinarily reside at the address as per TCR.
- b) Applicant shall surrender his Passport, if any, to the IO within *three days* of his release.
- c) Applicant shall join and participate in the investigation as and when called by the IO.
- d) Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times.
- e) Applicant shall not indulge in any criminal activity and shall not contact any of the prosecution witnesses, or tamper with the evidence of the case.

13. Accordingly, the present application is allowed and disposed of in the aforesaid terms.

14. A copy of this order be sent to the learned Trial Court and concerned Jail Superintendent for necessary information and compliance thereof.

15. Needless to say, the expression of opinion(s), if any, is only for the purposes of adjudicating the present application, and shall have no bearing on the trial involved in the present matter.

SAURABH BANERJEE, J.

MAY 05, 2026/So/DA