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

+ BAIL APPLN. 1005/2025
AAKASH TYAGI@AKKIPetitioner
Through: Mr. Rizwan Ali, Advocate

versus

THE STATE (GOVT, OF NCT DELHI)Respondent
Through: Mr. Tarang Srivastava, APP for the
State alongwith Insp. Manjeet
Dabas, P.S.-NFC
Mr. Pradeep Chowdhary and Mr.
Vikrant Chowdhary, Advocates for
Family of deceased/Complainant
alongwith Mr. Monu Baisoya,
Complainant

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.02.2026

1. By way of this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks regular bail in proceedings arising out of FIR No. 259/2018 dated 01.10.2018 registered under Sections 302/34 of the Indian Penal Code, 1860, read with Section 27 of the Arms Act, 1959 ["the Arms Act"], at Police Station New Friends Colony, Delhi.
2. I have heard Mr. Rizwan Ali, learned counsel for the applicant, Mr. Tarang Srivastava, learned Additional Public Prosecutor for the State and Mr. Pradeep Chowdhary, learned counsel for the family of the deceased.
3. The prosecution has placed on record a status report dated



08.05.2025, in which the facts relating to the present FIR have been narrated thus:

- A. A PCR call was received at Police Station New Friends Colony on 30.09.2018, reporting that the caller's father had been shot in front of House No. 145B, Taimoor Nagar, New Delhi.
- B. The Police, upon reaching the spot, found that one Rupesh [hereinafter, "the deceased"] was shot by two unidentified persons and had been taken to the Holy Family Hospital.
- C. At the hospital, the deceased was found to have two bullet wounds on his chest.
- D. The police was informed by the deceased's uncle that the deceased was playing with kids in the street when two young men came running, one of them shot him and they thereafter fled from the spot in a grey Honda City [vehicle bearing No. DL___0980].
- E. The deceased was declared dead in the hospital at about 10:10 PM on the same day.
- F. Upon inspection of the crime scene, empty cartridges were recovered from the spot.
- G. During investigation, CCTV footage of the area around the crime scene was recovered, on the basis of which, the accused persons were sought to be traced, but they could not be found.
- H. The Honda City car [bearing Registration No. DL-3C-AK-0980], was seized from Shehzada Bagh, Khula Market opposite Inder Lok Metro Station.
- I. One of the accused namely Ajay Rathi was arrested in an unrelated case and disclosed that he was involved in the present offence also.



Thereafter, he was interrogated on 11.08.2018, after taking permission from the Court. He was then remanded to police custody for a period of 5 days.

J. Another co-accused Akash [S/o Tejvir] was also arrested in connection with another FIR, and disclosed his involvement in the present case. He was thereafter arrested in the present case also, after taking permission from the Court.

K. Co-accused Ajay Rathi and Akash [S/o Tejvir] were identified as assailants during police custody remand, by the brother of the deceased, who was an eyewitness.

L. The present applicant was arrested on 16.11.2018 in connection with a different FIR [FIR No. 431/2018 at Police Station Mehrauli], and he also disclosed his involvement in the present case. Thereafter, he was interrogated in the present case on 19.11.2018, after taking permission of the Court, and also was arrested in the present case on the same day. He was thereafter remanded to one day's police custody, and the pointing out memo of the scene of the crime was prepared on his instance.

M. The applicant was identified by a witness at the Police Station during his police remand, as the person who was standing near a Honda City car in front of Baba Stationary across CV Raman Marg on 30.09.2018 at about 8.45 PM, waving a pistol in the air as the crowd approached him. The Call Detail Record of co-accused Ajay Rathi established his and his associates' location, including the applicant herein, on 30.09.2018 at 4:40 PM at property No. 780/1, Khasra No. 556, Nizamuddin West, Delhi, which is the place from



where the said Honda City car was stolen, around the same time. It also established their location at around 8:28 PM near the scene of the crime, and at 11:49 PM at the location where the car was found abandoned.

4. I am informed by learned counsel for the parties that, out of 46 witnesses, approximately 20 witnesses have already been examined.

5. Mr. Ali submits that the applicant has been in custody since 16.11.2018, i.e. more than 7 years. This is corroborated by the latest nominal roll, which mentioned his period of custody as 6 years 10 months 16 days as on 22.10.2025.

6. Mr. Ali's principal argument in support of the application is that co-accused Ajay Rathi has been granted bail by this Court *vide* order dated 07.11.2024 in BAIL APPLN. 3491/2024. He draws my attention to the aforesaid order, which notes that no gunshot injury was caused by Ajay Rathi, and that he had suffered almost six years of incarceration at the time. It was also stated that he had been released on interim bail on four occasions, when he had not misused the liberty, and that the prime witnesses had already been examined at that time. Upon analysis of the role of Ajay Rathi, the Court came to the conclusion that he was entitled to bail particularly keeping in mind the period of incarceration, likely duration of the trial and the fact that he is not the person who had caused gunshot injuries to the deceased. The Court noted that the criminal antecedents of an accused cannot be one of the sole reasons for refusal of bail, relying upon the judgment of the Supreme Court in *Prabhakar Tewari v. State of U.P.* [(2020) 11 SCC 648].

7. Mr. Srivastava and Mr. Chowdhary opposed the grant of bail,



relying upon the gravity of the offence and the criminal antecedents of the present applicant. They submit that the role attributed to the present applicant is of driving the getaway vehicle. As far as his antecedents are concerned, Mr. Srivastava submits that he is involved in as many as 22 cases including the present FIR. The nominal roll also mentions 7 other cases presently pending against the applicant, which includes offences under Sections 302, 307, 392, 394, and 397 of the IPC amongst other provisions, as well as Sections 25 and 27 of the Arms Act. He has also previously been convicted in the proceedings arising out of FIR 202/2018 under Sections 380, 457, 411 of the IPC.

8. Having heard learned counsel for the parties. I am of the view that while the allegations in the FIR pertain to a heinous offence, the applicant's claim for parity, relying upon the order passed by this Court dated 07.11.2024 in the case of Ajay Rathi is merited. Co-accused Ajay Rathi and Akash [S/o Tejvir] were both accused of approaching the deceased with the guns in their hands, but co-accused Akash [S/o Tejvir] is the one who shot the deceased. This Court has already granted bail to Ajay Rathi on the ground that he did not cause the gunshot injury. The present applicant is not alleged to have been one of the individuals who approached or attacked the deceased, but who was waiting with the vehicle in which the accused persons fled from the spot. His role is thus, *prima facie*, no graver than the role attributed to Ajay Rathi.

9. As far as the applicant's criminal antecedents are concerned also, at my request, Mr. Srivastava has taken instructions as to the criminal antecedents of Ajay Rathi, and placed on record the previous conviction/involvement report of Ajay Rathi *vide* status report dated



16.01.2026. It also shows several involvements of Ajay Rathi, including the offences under Sections 307, 379, 392, 411 IPC and Section 25 of the Arms Act. The position of the present applicant is, therefore, comparable to that of Ajay Rathi in this respect also.

10. The Court also bears in mind that the applicant has already been in custody for a period of over 7 years, and that all material witnesses have been examined. However, 26 witnesses are yet to be examined, which supports the contention of Mr. Ali, that the trial is not likely to conclude in the near future.

11. Having regard to the aforesaid factors, it is directed that the applicant be released on bail in connection with FIR No. 259/2018 dated 01.10.2018, registered under Sections 302/34 of the IPC read with Section 27 of the Arms Act, at Police Station New Friends Colony, Delhi, upon furnishing a personal bond for a sum of Rs. 25,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court, on the following conditions:

- a. The applicant 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;
- b. The applicant shall under no circumstance leave the boundaries of the country without the permission of the Trial Court;
- c. The applicant shall appear before the Trial Court as and when directed;



- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
 - e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
12. Needless to say, the observations in this order are only for the purpose of deciding the present bail application, and are not intended to prejudice the case for any other purpose.
13. The order be communicated to the concerned Jail Superintendent for information and necessary compliance.
14. The bail application stands disposed of in these terms.

PRATEEK JALAN, J

FEBRUARY 5, 2026

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