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

% ***Date of Decision : 03.11.2026***

\# **CNR No.DLHC010345662026**

\+ **BAIL APPLN. 3042/2026**

PRADEEP .....Petitioner

Through: Mr. Nipun Katyal and Mr. Manan Sharma, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Priyanka Dalal, APP for the State along with Ms. Swati, Adv.
Mr. Rajat Manchanda, Ms. Megha Gaur, Ms. Sakshi Sharma, Advs. for complainant.
SI Rahul, PS Sangam Vihar.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*ORAL*)

1. By way of the present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the applicant seeks regular bail in case arising out of FIR No. 0402/2019 dated 12.12.2019 under sections 302/307/34 of the Indian Penal Code, 1860 (IPC) and sections 25/27/54/59 of the Arms Act, 1959 registered at P.S. Sangam Vihar.

2. The factual conspectus of the matter is that on 11.12.2019, at about 8:30 P.M., one Rahul Jha was shot in the head in front of House No.H-17/360, Sangam Vihar, near the office of co-accused Naresh (the father of the applicant), and was declared brought dead at Majidiya Hospital. The FIR was registered on the statement of the father of the deceased, Sh. Harish Chander

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Jha.

3. It is alleged that the co-accused Naresh caught hold of the deceased and exhorted the applicant, who fired at him. The applicant was arrested on 13.12.2019; a pistol and one live cartridge is also stated to have been recovered at his instance from his house.

4. As per the status report, the DNA/FSL result was filed before the learned trial Court on 14.04.2022. The FSL result *qua* the firearm has only recently been obtained and is to be filed through a supplementary charge-sheet, upon receipt of sanction under Section 39 of the Arms Act, which is stated to be awaited from the DCP concerned.

5. Learned ASJ, while declining bail, *vide* order dated 08.06.2026, has recorded that majority of witnesses have been examined and the trial is pending primarily for want of the FSL result, regarding which notice had been issued to the Director, FSL.

6. Learned ASJ dismissed the bail application on the ground that the applicant is the alleged shooter, who has been identified by the public witnesses before the Court, and that there is a threat to the life of the members of the family of the deceased, who reside nearby.

7. As per the nominal roll, the actual period spent by the applicant in custody is 5 years and 9 months. The applicant was on interim bail from 05.03.2022 till 07.04.2023, when he surrendered. His jail conduct is recorded as satisfactory, and no other case is shown to be pending against him.

8. Co-accused Naresh has been granted bail by this Court *vide* order dated 18.05.2026 in BAIL APPLN. No.1649/2026.

9. Learned counsel for the applicant emphasizes that the applicant has been in custody for an inordinately long period of time and also has no

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previous involvements. It is submitted that the material witnesses have already been examined and that, during the periodwhen the applicant was on interim bail, the said liberty was not misused.

10. It is submitted that the delay in obtaining the FSL Report is not attributable to the applicant.

11. Learned APP for the State strongly opposes the present application. It is emphasized that the applicant is the shooter, having a prime role in the incident. It is apprehended that the applicant may evade the process of law, threaten or influence the eyewitnesses, or commit another offence.

12. Learned counsel appointed by this Court *vide* order dated 02.09.2026 (to take care of the interest of the complainant), also strongly opposes the bail application.

13. This Court has carefully considered the rival contentions of the parties.

14. It is trite that bail is the rule and jail is the exception. Reference in this regard may be placed to a judgment rendered by the Supreme Court in ***Manish Sisodia v. Enforcement Directorate,*** (2024) 12 SCC 660 wherein it has been observed as under:

> *"52. The Court in Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that "bail is rule and jail is exception".*

15. It is further well settled that the gravity of the offence by itself cannot

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be the basis for refusing bail. In this regard, reference may be made to the observations of the Supreme Court in ***Prabhakar Tewari v. State of U.P.***, (2020) 11 SCC 648, wherein it was observed as under:

> *"**7.** On considering the submissions of the learned counsel for the parties, having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in Mahipal for testing the legality of an order granting bail are absent in the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed."*

16. No doubt, the role attributed to the applicant is graver than that of co-accused Naresh, and parity as such is not available to the applicant, however, the following circumstances weigh with this Court:

i. The actual period spent by the applicant in custody is about 5 years and 9 months;

ii. The examination of 19 of 25 witnesses, including the complainant and the public witnesses, has been completed; as such, the apprehension of the petitioner influencing the witnesses has substantially reduced;

iii. The applicant's conduct during the period of interim bail for over a year, did not involve any complaint or misuse. It is also not disputed that the applicant surrendered timely; and

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iv. The trial has been awaiting the FSL results, which have come only belatedly and the delay cannot be attributed to the applicant;

v. The applicant has no previous involvements, and his jail conduct is recorded as satisfactory; and

vi. The apprehension expressed for the safety of the family of the deceased can be met by stringent conditions.

17. Reliance may be placed upon the order/ judgment dated 16.07.2026 passed by the Supreme Court in ***Liakat Ali vs. State of Jammu & Kashmir***, which, *inter alia*, held as under:

> *"This is a writ petition seeking to invoke our powers under Article 32 of the Constitution of India, 1950. The prayer in the writ petition is for the grant of bail, as the petitioner has been under incarceration for a period of more than nine years and two months. In short, the grievance of the petitioner is that the trial is proceeding at a snail's pace, for no fault of his. The petitioner's bail application has attained finality in the year 2024. Even thereafter, there is no substantial progress in the trial, since as of yet only 12 out of 30 prosecution witnesses have been examined before the Trial Court.*
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> *However, the continued delay in trial and prolonged incarceration shocks our judicial conscience. The petitioner was a teenager at the time of the alleged occurrence and has been charged with the commission of murder based on circumstantial evidence. He has been under incarceration for a period of nine years and two months, for no fault on his part. At this rate, the trial is likely to take further time. When the accused is under incarceration, it is incumbent upon the Courtand the prosecuting agency to expedite the conduct of the trial. Considering the facts of the case, we are inclined to invoke our powers under Article 32 of the Constitution of India by granting bail to the petitioner, for which appropriate conditions will have to be imposed by the concerned Trial Court."*

18. The right to a speedy trial is an integral facet of Article 21 of the Constitution, and prolonged incarceration of an undertrial, where the trial is

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not likely to conclude in the near future, is by itself a consideration in favour of grant of bail. In ***Union of India v. K.A. Najeeb***, (2021) 3 SCC 713, the Supreme Court has observed as under:

> *"15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India , it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail."*

19. Reference in this regard may also be made to the following observations of the Supreme Court in ***Arvind Dham v. Enforcement Directorate***, (2026) 7 SCC 330:-

> ***"15.*** *It is well settled that if the State or any prosecuting agency including, the court concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] . The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : (2026) 1 SCC (Cri) N-14] ."*

20. Accordingly, in view of the above,the applicant is admitted to regular

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bail on furnishing a personal bond in the sum of Rs.50,000/-, with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions:

i. The applicant/accused shall not leave NCT of Delhi or travel out of the country without prior permission of the Trial Court;

ii. The applicant/accused shall provide his permanent address to the trial Court, and also the address where he will be residing during the pendency of the case;

iii. The applicant/accused shall intimate the Investigating Officer (IO) and file an affidavit before the Trial Court regarding any change in his residential address;

iv. The applicant/accused shall furnish his mobile number to the Investigating Officer (IO)/Station House Officer (SHO) concerned, which shall be kept in working condition at all times. The mobile number shall be kept switched on, with location services enabled at all times, and the same shall be shared with the IO. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;

v. The applicant/accused shall report to the IO as and when called for by the IO;

vi. The applicant/accused shall not directly or indirectly contact, approach or threaten the complainant or any member of the family of the deceased or any witness, or visit the residential premises where the family of the deceased resides;

vii. The applicant/accused shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the

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facts of the case, or tamper with the evidence of the case, in any manner whatsoever;

viii. The applicant/accused shall appear before the Trial Court on each and every date of hearing;

ix. The applicant/accused shall not indulge in any criminal activity during the period of bail;and

x. The applicant/accused shall appear once a month before the IO at the concerned Police Station between 10:00 am and 11:00 am.

21. In case of breach of any of the aforesaid conditions, the State shall be entitled to move an application seeking cancellation of bail.

22. The learned trial Court is requested to expedite the trial proceedings to the extent feasible.

23. It is clarified that the observations made herein 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 of this Court on the merits of the case.

24. Let a copy of this order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

25. The application is disposed of in the above terms. Pending application, if any, also stands disposed of.

SACHIN DATTA, J

NOVEMBER 3, 2026/r, ka

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