$~7 (16.11.2026)

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

\# **CNR No. DLHC010510302026**

\+ BAIL APPLN. 4506/2026

MOHIT @ GOLU .....Petitioner

Through: Ms. Anjana, Mr. Shivam, Mr. Rishab, Mr. Krishan Shooken, Advocates.

versus

THE STATE NCT OF DELHGO .....Respondent

Through: Mr. Tarang Srivastav, APP for the State with Insp. SP Samania, PS ATO/Prem Nagar.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 17.11.2026

[*This case is being taken up today as 16th November, 2026 was declared a holiday vide Notification No. 110/G-4/Genl.-I/DHC dated 11th November, 2026*]

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] seeks regular bail in FIR No. 173/2020 dated 22nd May, 2020, registered at P.S. Prem Nagar under Sections 392/397/307/34 of the Indian Penal Code, 1860 ["IPC"] and Sections 27/54/59/25 of the Arms Act, 1959 ["Arms Act"].

2. The prosecution case arises from an incident on the night of 21st May, 2020, when three armed persons allegedly entered a house at Rama Vihar, Delhi, demanded money from its occupants and fired at them. Bhanu, aged 16 years, succumbed to his injuries on 23rd May, 2020, while Santosh sustained grievous injuries. The Applicant is alleged to have been one of the

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three persons who entered the house. He was arrested in the present case on 3rd June, 2020. Upon completion of the investigation, a chargesheet was filed implicating the Applicant under Sections 302/307/392/397/396/143/144/147/148/149/34 IPC and Sections 25/27 Arms Act. Subsequently, on 27th March, 2023, the Trial Court framed charges under Sections 395/396/302/307/397/149/34 IPC and Section 27 Arms Act.

3. Counsel for the Applicant submits that the two eyewitnesses, Sanju (PW-1) and Santosh (PW-2), have been examined but have failed to identify the Applicant as one of the assailants. He further relies upon the order dated 23rd September, 2025, whereby co-accused Ajay was granted regular bail despite the State's objection based on his criminal antecedents. It is submitted that the Applicant has remained in custody for more than 6 years and 5 months and that the trial is nowhere near completion.

4. Mr. Tarang Srivastav, APP for the State, opposes the application, principally on account of the gravity of the offences and the Applicant's criminal antecedents. He points out that the Applicant was correctly identified by PW-1 during TIP proceedings. He contrasts this with co-accused Ajay, who declined to participate in TIP proceedings but was subsequently identified by PW-1 during PC remand. He also expresses apprehension that the Applicant may engage in further criminal activity or threaten prosecution witnesses if released.

5. The gravity of the allegations cannot be understated. A young person died as a result of firearm injuries, while another victim sustained grievous injuries in the same incident. The occurrence of the shooting is *prima facie* supported by the medical evidence and the testimonies of PW-1 and PW-2. The question, however, at this stage is whether the material connecting the

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Applicant with the incident, considered alongside his prolonged incarceration, justifies his continued incarceration pending trial.

6. PW-1 Sanju, during his examination on 9th December, 2023, described the incident but failed to identify the accused persons in Court. Although he had earlier identified the Applicant during TIP proceedings conducted on 17th June, 2020, he also stated in his testimony that the police had shown him photographs of the accused persons before those proceedings. PW-2 Santosh, who himself sustained gunshot injuries, likewise failed to identify the accused persons during his examination on 15th July, 2024. He attributed his inability to recognise the assailants to the dim lighting at the place of occurrence. Thus, while both witnesses have spoken about the shooting, neither has identified the Applicant in Court.

7. The earlier TIP identification remains a circumstance relied upon by the prosecution, and its evidentiary value must ultimately be determined at trial. Nevertheless, PW-1's statement concerning prior exposure to the photographs, coupled with his subsequent failure to identify the Applicant, is relevant while assessing the present request for bail. The chargesheet also refers to weapons recovered in connected FIR No. 186/2020, registered at P.S. Kanjhawala. The material presently placed before this Court does not contain a ballistic opinion linking those weapons with the cartridges and other exhibits recovered at the scene. No conclusive finding on that aspect is warranted at this stage.

8. There is substantial similarity between the case attributed to the Applicant and that of co-accused Ajay, who was granted bail on 23rd September, 2025, after the two eyewitnesses failed to identify him in Court. The Applicant's identification during TIP proceedings is a distinguishing

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circumstance, but that identification must be viewed in the context of PW-1's subsequent testimony. Parity, therefore, lends support to the Applicant's request, although his entitlement to bail must be determined upon consideration of his individual circumstances.

9. The Applicant's antecedents require careful consideration. The Status Report lists several other criminal cases, including serious allegations of murder, robbery and offences involving firearms. Four FIRs are described as untraced, while the Applicant is shown to have been acquitted in FIR No. 156/2020. Several other prosecutions remain pending. The Nominal Roll as on 12th November, 2026 records a conviction in FIR No. 654/2018, P.S. Sonipat City, Haryana, under Sections 406/201 IPC, for which the Applicant was sentenced on 21st April, 2025, to imprisonment for the period already undergone. These circumstances cannot be disregarded. Equally, the pending prosecutions cannot be treated as findings of guilt, and the cases reported as untraced cannot be accorded the same weight as cases in which the Applicant is facing trial.

10. A prison record accompanying the Nominal Roll reflects six disciplinary punishments during incarceration, including instances involving assault or use of criminal force. The Nominal Roll records the Applicant's overall jail conduct as unsatisfactory in view of these punishments. It, however, records his conduct during the preceding year as satisfactory.

11. The Applicant has remained in custody since 3rd June, 2020, and had completed 6 years, 5 months and 10 days of incarceration as on 12th November, 2026. The charges were framed on 27th March, 2023, while the two eyewitnesses were examined on 9th December, 2023, and 15th July, 2024, respectively. The prosecution has cited 43 witnesses, and the latest

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Status Report continues to record the case as being at the stage of prosecution evidence. In these circumstances, there is no indication that the trial is likely to conclude in the near future.

12. The Supreme Court has repeatedly recognised that prolonged pre-trial incarceration, where the trial is unlikely to conclude within a reasonable period, engages the constitutional guarantee under Article 21. In ***Javed Gulam Nabi Shaikh v. State of Maharashtra & Anr.***[1], the Supreme Court reiterated that, howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution. In ***Balwinder Singh v. State of Punjab & Anr.***[2], the Supreme Court, while considering a bail application in a case involving a shooting incident in which the petitioner was alleged to have had a direct role in shooting the victim, observed that an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21. Taking note of the fact that the trial was unlikely to conclude in the near future, the Court considered it appropriate to grant bail to avoid the trial process itself becoming the punishment. Further, in ***Prabhakar Tewari v. State of U.P. & Anr.***[3], the Supreme Court held that the gravity of the offence and the pendency of several criminal cases against an accused cannot, by themselves, form the basis for refusal of bail. These principles do not make the duration of custody or the existence of antecedents automatic grounds for bail. They require the Court to assess whether continued incarceration remains necessary and proportionate in the circumstances of the particular case.

13. The application is, accordingly, allowed. The Applicant shall be

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[1] 2024 INSC 645.
[2] SLP (Crl.) No. 8523/2024, order dated 9th September, 2024.

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released on regular bail upon furnishing a personal bond in the sum of INR 25,000/- with two sureties of the like amount, to the satisfaction of the Trial Court/Duty MM, subject to the following conditions:

(i) The Applicant shall appear before the Trial Court on every date of hearing, unless exempted.

(ii) He shall not directly or indirectly contact, threaten, influence or otherwise interfere with any prosecution witness or the family members of the deceased or injured.

(iii) He shall report to the SHO, P.S. Prem Nagar, twice a month, on the days and at times fixed by the SHO. He shall not be detained longer than necessary for this purpose.

(iv) He shall furnish his current residential address and mobile number to the IO and intimate any change therein to the IO as well as the Trial Court.

(v) He shall not leave the NCT of Delhi without prior permission of the Trial Court.

(vi) He shall not engage in any criminal activity while on bail.

14. In the event of any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail.

15. Before the bail bonds are accepted, the Applicant shall file, through his pairokar, a corrected affidavit before the Trial Court, accurately disclosing his criminal antecedents, the present status of the cases, the conviction recorded in the Nominal Roll and the particulars of his previous bail applications, in accordance with the applicable practice directions. It is clarified that the present decision is based on an independent consideration of the State's Status Report and the Nominal Roll, and not on the incomplete

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[3] (2020) 11 SCC 648.

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particulars furnished in the supporting affidavit.

16. Nothing stated in this order shall be construed as an expression of opinion on the merits of the case. The Trial Court shall proceed with the trial independently, uninfluenced by any observations made herein.

SANJEEV NARULA, J

NOVEMBER 17, 2026/ab

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