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

+ **BAIL APPLN. 2854/2025**

AFAQ

.....Petitioner

Through: Mr. Mansoor Ali, Ms. Rubina
Jawed and Mr. Aazad Ali,
Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP
with Insp. Faizan Ghani and SI
Pankaj Kumar, PS: Jyoti Nagar.
Ms. Astha (DHCLSC) and Ms.
Megha Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **25.02.2026**

1. The petitioner seeks regular bail in connection with FIR No. 383/2016 dated 18.08.2016, registered at Police Station Jyoti Nagar, District North East, Delhi, under Sections 302/120B/34 of the Indian Penal Code, 1860, and Sections 25/27 of the Arms Act, 1959.
2. Learned Additional Public Prosecutor has placed on record a status report pursuant to order dated 01.08.2025, wherein the allegations against the petitioner are set out, *inter alia*, as under:

A. FIR No. 383/2016 dated 18.08.2016 was registered at Police Station Jyoti Nagar in respect of an incident dated 17.08.2016, in which one Tanveer @ Pandu sustained fatal injuries.

B. As per the statement of the complainant (brother of the deceased), on 17.08.2016 at about 8:30 P.M., co-accused Ubesh and Irfan



called the deceased from his house. When the complainant went in search of him near the sewage drain at Kardampuri Pulia, he allegedly saw co-accused Irfan and the present petitioner having thrown the deceased to the ground and holding him.

- C. It is further alleged that while the present petitioner and co-accused Irfan restrained the deceased, co-accused Ubesh stabbed him with a knife, thereafter co-accused Shahid inflicted further knife blows, and co-accused Gufran fired a shot at him.
- D. Upon the complainant raising an alarm, all the accused persons, including the present petitioner, allegedly fled from the spot. The injured was admitted to Guru Teg Bahadur Hospital, where he was declared “*brought dead*”.
- E. The post-mortem report opined the cause of death as hemorrhagic shock resulting from ante-mortem injuries caused by a sharp-edged weapon and a firearm projectile, which were sufficient to cause death in the ordinary course of nature.
- F. During investigation, the present petitioner was arrested on 01.12.2016 alongwith other co-accused persons. The knife and country-made pistol allegedly used in the commission of the offence were recovered from the sewage drain near Kardampuri Pulia at the instance of the Children in Conflict with Law.
- G. The FSL report opined that the recovered .315 bore country-made pistol was in working condition, and that the fired cartridge case recovered from the spot had been discharged through the said weapon.
- H. The main and supplementary chargesheets have been filed against all accused persons, including the present petitioner. The trial is



stated to be at the final stage.

3. It is submitted by Mr. Mansoor Ali, learned counsel for the petitioner, that the petitioner has been incarcerated for more than nine years and seeks bail on parity with co-accused Irfan, who was granted bail *vide* order dated 28.09.2021 [in Sessions Case No. 16/2017] passed by the learned Sessions Court.

4. It appears that at the fag end of the trial, the petitioner filed an application before the learned Sessions Court for recall of three eye-witnesses, i.e., PW-3, PW-4 and PW-5. By order dated 11.12.2025, this Court recorded as follows:

"1. Learned APP for State informs this Court that the petitioners have moved an application seeking recall of PW-3, PW-4 and PW-5, and the said application is listed before the learned Trial Court for consideration on 04.02.2026.

2. Learned counsel for the petitioner submits that he does not wish to rely upon the testimony of PW-3, PW-4 and PW-5. However, this Court is of the considered view that until the said application is decided by the learned Trial Court, the present matter cannot be taken up for hearing.

*3. In view of the above, list the matter on 25.02.2026. "*¹

5. Despite the submissions recorded above, it is now stated by Mr. Ali that the application has been allowed and PW-3, 4 & 5 have been recalled.

6. Mr. Yudhvair Singh Chauhan, learned Additional Public Prosecutor, however, on instructions from the Investigating Officer, submits that the application remains pending and is listed for 13.04.2026.

7. In either eventuality, it cannot be said at this stage, that the evidence of the eye-witnesses stands concluded. If Mr. Ali is correct and the application has already been allowed, the said witnesses are yet to be re-examined. If, on the other hand, Mr. Chauhan is correct in submitting



that the application remains pending, the order of this Court dated 11.12.2025 makes it clear that the issue of bail ought not to be decided at this stage.

8. As regards parity with co-accused Irfan, without entering into the merits of the contention, it may be noted that in the order dated 28.09.2021, it was submitted that the evidence of the material witnesses had already been completed and that the remaining prosecution witnesses were either police officials or formal witnesses. This situation no longer subsists, in view of the application filed by the petitioner himself, for recall of material witnesses.

9. In these circumstances, I am of the view that the appropriate course would be to request the learned Sessions Court to expedite consideration of the application for recall of witnesses, if not already decided, and to conclude their testimony expeditiously, if they are recalled. The petitioner may make a request before the Sessions Court in this regard, particularly in view of the long period of custody.

10. The petitioner is also at liberty to file a fresh bail application before the Sessions Court at the appropriate stage, depending upon the outcome of the application.

11. The present application stands disposed of with these observations.

PRATEEK JALAN, J

FEBRUARY 25, 2026

‘Sh/JM’/

¹ Emphasis supplied.