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

\# **CNR No. DLHC010529322026**

\+ BAIL APPLN. 4698/2026 & CRL.M.A. 34501/2026

ANUP GUPTA .....Petitioner

Through: Mr. Arun Baali, Mr. J.S. Lamba, Ms. Arisha Ahmad and Mr. Khuranshu Nagpal, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Tarang Srivastav, APP.
Inspector Rajiv Kumar, P.S. Ghazipur and Inspector Bralama Dutt, P.S. Greater Kailash.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 03.11.2026

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1], seeks regular bail in FIR No. 93/2023 registered at P.S. Ghazipur, initially under Sections 307/34 of the Indian Penal Code, 1860[2]. Following the death of the injured, Section 302 IPC was added. The Applicant is presently facing trial for offences under Sections 302/120-B/149 IPC and has remained in custody since 9th June, 2023.

2. The prosecution case has been set out in detail in this Court's earlier order dated 29th July, 2025, passed in BAIL APPLN. 1277/2025. The factual account recorded therein shall be read as part of the present order and need not be reproduced. Briefly, the allegation is that following a previous altercation, the Applicant and his associates attacked Bhanu Singh near Kondli Pul. The Applicant allegedly restrained the deceased by holding his

[1] "BNSS"

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hands while a co-accused inflicted fatal knife injuries. The prosecution relies upon the identification of the Applicant by PW-4, both in the judicial Test Identification Parade[3] and before the Trial Court, as well as the Call Detail Records[4] indicating his contact with the co-accused and the location of the mobile phone allegedly used by him near the place of occurrence.

3. The Applicant's earlier bail application was dismissed by this Court on 29th July, 2025, after considering the Applicant's reliance on the testimony of the material witnesses, the alleged contradictions in their statements, the identification of the Applicant and the corroborative CDR evidence. The Court found sufficient *prima facie* material to decline bail. The Applicant thereafter approached the Trial Court, which dismissed his renewed application on 10th October, 2026.

4. Mr. Arun Baali, counsel for the Applicant, submits that the circumstances have since materially changed. The Applicant has undergone a further period of more than one year and three months in custody, during which only three additional prosecution witnesses have been examined. Of the 22 witnesses cited, seven remain to be examined. It is submitted that the slow pace of the trial, also acknowledged by the Trial Court, makes its early conclusion unlikely. Counsel further contends that all material public witnesses have been examined, substantially reducing any apprehension of their being influenced. Reliance is placed on the Applicant's young age, absence of criminal antecedents and voluntary surrender. The alleged discrepancies in the eyewitness account, delay in conducting the TIP and limitations of the CDR evidence are also pressed into service.

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[2] "IPC"
[3] "TIP"

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5. Mr. Tarang Srivastav, APP for the State, opposes the application. He submits that the objections concerning identification and the reliability of the prosecution witnesses were already considered when bail was refused on 29th July, 2025. No subsequent evidence has been shown to warrant a different assessment. He points out that 15 witnesses have been examined and those remaining are largely official or formal witnesses. The prosecution, he submits, will make every effort to conclude its evidence expeditiously, subject to the cooperation of the Applicant. He also opposes the plea of parity with the co-accused, who are children in conflict with law.

6. The principles governing successive bail applications are settled. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan***[5], the Supreme Court held that although successive applications are maintainable, the grounds already considered cannot ordinarily be reopened without a material change in the factual or legal position. The Court observed:

> *"Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting."*

7. A subsequent application must, therefore, be considered with due regard to the reasons for the earlier refusal, while remaining open to developments which may justify a different conclusion.

8. In the present case, the testimony of PW-4, PW-5 and PW-9, including the fact that the latter two did not identify the Applicant, was already on record when this Court declined bail. The alleged inconsistencies in PW-4's testimony, his identification of the Applicant and the prosecution's reliance upon the CDR evidence were specifically considered.

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[4] "CDRs"
[5] (2005) 2 SCC 42

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9. The objections now raised concerning the delay in conducting the TIP and the intervening police custody also arise from material available before the earlier order. No subsequent testimony has been shown to materially affect the basis on which bail was previously refused. Reconsidering the same evidence merely to arrive at a different *prima facie* conclusion would be inconsistent with the principles governing successive bail applications.

10. The remaining question is whether the additional period of custody and the progress of the trial warrant a different view. These considerations cannot be dismissed merely because the earlier application was rejected. The right to a speedy trial forms part of Article 21 of the Constitution. In ***Union of India v. K.A. Najeeb***[6], the Supreme Court recognised the constitutional concern arising where a timely trial is no longer a realistic prospect, and the accused has already undergone substantial incarceration. Equally, there is no fixed period of custody which, upon its expiry, automatically entitles an accused to bail. The nature of the accusation, the material supporting it and the actual stage and likely duration of the trial must be considered together.

11. The decisions in ***Vineet v. State***[7] and ***Sandeep Tilwani v. State (Govt. of NCT of Delhi)***[8] recognise that prolonged custody may itself justify fresh consideration of bail. However, in *Vineet*, the accused had undergone more than six years of custody, with 17 witnesses still to be examined. In *Sandeep Tilwani*, charges had not even been framed despite prolonged incarceration. The circumstances here are different. Charges were framed on 28th November 2023, 15 of the 22 prosecution witnesses have been examined, and the testimony of the principal public witnesses stands concluded. The

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[6] (2021) 3 SCC 713

[7] BAIL APPLN. 2882/2023, decided on 20th May, 2024

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remaining witnesses are stated to be largely official or formal in nature.

12. The pace of the trial is nonetheless a matter of concern. Only three witnesses have been examined since the previous rejection of bail. The Applicant has now spent nearly three years and five months in custody, and that period is substantial. However, considering the stage already reached in the trial, the limited number of witnesses remaining, the nature of the accusation and the *prima facie* material considered in the earlier order, the Court is not persuaded that continued custody has, at this stage, become disproportionate or that the circumstances warrant a departure from the earlier decision. The Applicant's clean antecedents, age and voluntary surrender have also been considered. Nor can parity be claimed with the co-accused who were dealt with under the distinct statutory framework applicable to children in conflict with law.

13. Accordingly, no sufficient ground is made out for grant of bail. The application is dismissed.

14. Having regard to the period of custody already undergone, the Trial Court is requested to take up the remaining prosecution evidence on short dates, as far as its schedule permits, and make every endeavour to conclude the trial expeditiously. The prosecution shall ensure the attendance of its witnesses on the dates fixed and avoid unnecessary adjournments.

15. The observations made herein are confined to the consideration of bail and shall not influence the Trial Court's assessment of the evidence.

SANJEEV NARULA, J

NOVEMBER 3, 2026/as

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[8] BAIL APPLN. 4648/2024, decided on 24th December, 2024

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