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

+ **BAIL APPLN. 3710/2025**

RAKESH @ RAKA

...Applicant

Through: Mr. Sarthak Tomar, Adv.

versus

STATE (GOVT. OF NCT OF DELHI)

...Respondent

Through: Mr. Raghuinder Verma, APP for State with Mr. Aditya Vikram Singh, Ms. Upasna Bakshi and Mr. Gourav Singh, Advocates with Insp. Surender, PS: Kanjhawala Mr. Sarthak Karol, SC (DHCLSC) with Ms. Neelakshi Bhadauria, Ms. Tanishka Pawar, Adv. for father of deceased

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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28.04.2026

1. By virtue of the present application under *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks grant of regular bail in the case arising out of FIR No.58/2021 dated 05.02.2021 registered at PS: Kanjhawala under *Sections 302/34/115/120B/174A/212* of the Indian Penal Code, 1860 and *Sections 25/27* of the Arms Act, 1959.
2. *Succinctly put*, as per prosecution the FIR was registered upon the receipt of information on 04.02.2021 from MLS Cygnus Hospital, Rama Vihar to the effect that one male person with multiple gunshot injuries had been brought to the Hospital whereby he was declared dead at 09:20 PM.



During the course of investigation, as per disclosure statements of the co-accused persons, the role of the applicant emerged as having participated in the planning as well as the commission of the offence. He was, accordingly, arrested on 27.03.2022.

3. Learned counsel for the applicant primarily relies upon the factum that only *three* out of *67 witnesses* of the prosecution have been examined till now, with the *fourth* witness partially examined, and out of them *two* witnesses have already turned hostile. He further submits that the only allegation against the applicant is that he supplied firearms to the other co-accused, and as such, no recovery has been affected from him, neither of any firearms nor of the motorcycle or the jacket in which he was supposedly seen in the CCTV footage. In fact, as per him, the applicant is never seen in any of the CCTV footages, neither of the flat where, as per prosecution, the plan was hatched, nor of the place of incident at the relevant time. Hence, he submits that there is no *prima facie* case made out against the applicant and therefore, no reasons for keeping him under incarceration as he has already faced *four years* in custody.

4. Learned APP for the State and learned counsel for the complainant have handed over copies of the Status Report and the written synopsis respectively, which are taken on record.

5. Based thereon, learned APP submits that the applicant is clearly identified in the CCTV footages concerned, whereby each of the time stamps matches the timings of the offence, and hence, there is a strong *prima facie* case against the applicant. He submits that the applicant does not have clean antecedents and there is every likelihood of influencing or threatening the witnesses. He further submits that despite lapse of time,



the witnesses are not coming forth since they have been threatened, coerced and influenced by the applicant, who is a habitual offender. In this regard he draws the attention of this Court to the Nominal Roll and submits that while inside jail also since 2009 till 2024, he has been issued *eight* punishment tickets as also there are *nine* other FIRs involving the applicant herein, so much so, he has already been convicted in *two* of the said FIRs. He lastly submits that one of the co-accused who was granted bail by the learned Trial Court is since not traceable.

6. Learned counsel for the complainant, supplementing the case of the State, submits that the eye witnesses not appearing before the learning Trial Court is itself a factor which reflects the fear of the applicant alongwith the other co-accused persons. He has also drawn the attention of this Court to *paragraph no.12* of the present application wherein the applicant has stated that he is not a previous convict or a habitual offender and has clean antecedents, and he hence submits that the applicant has not even approached this Court with clean hands.

7. This Court has heard learned counsels for the parties and carefully perused the documents on record.

8. Though the applicant has already undergone *four years* of incarceration, the charge-sheet and the supplementary charge-sheet have also been filed, the charges have also been framed and only *four* witnesses have been examined till now, however, the role attributed to the applicant whereby he is seen in the CCTV footages at all the relevant time-stamps is not inspiring confidence. In fact, his overall conduct while he was in custody, and especially since going by his antics, he may qualify for being a habitual offender who has engaged in grave and heinous offences, for



some of which he is punishable with death/ life imprisonment as well, both prior and subsequent to the present offence, as also the witnesses turning hostile, this Court has no confidence that the applicant would not misuse his liberty if he is enlarged on bail. In addition thereto, since one of the co-accused has already jumped bail and is not traceable, this Court cannot rule out the apprehensions of evidence tampering and/ or witness intimidation. Moreover, the contentions raised by learned counsel for the applicant *qua* the low quality of CCTV footages or his presence at the flat for planning the offence being matters of trial, need not be gone into at this stage.

9. Therefore, considering the overall facts and circumstances involved herein coupled with the gravity of the offence, this Court sees no reason to grant a regular bail to the applicant.

10. Accordingly, the present application is dismissed.

11. Needless to say, any expression of view(s) on the merit(s) of the case is purely for the purposes of adjudication of the present application and shall have no bearing on the trial involved.

SAURABH BANERJEE, J.

APRIL 28, 2026/So