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

+ BAIL APPLN. 3731/2025
JITENDER

.....Petitioner

Through: Mr. Srikant Singh, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvair Singh Chauhan, APP
Insp. Dharmendra Pratap Singh,
PS: Alipur.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **25.02.2026**

1. The petitioner seeks regular bail in connection with FIR No. 60/2021, dated 23.02.2021 registered at Police Station Begumpur, District Rohini, Delhi, under Sections 307/34 of the Indian Penal Code, 1860 ["IPC"]. As the victim thereafter succumbed to his injuries, a chargesheet has been filed on 21.05.2021 under Sections 302/34 of the IPC.
2. I have heard Mr. Srikant Singh, learned counsel for the petitioner, and Mr. Yudhvair Singh Chauhan, learned Additional Public Prosecutor for the State. The parents of the deceased are also present in person, pursuant to notice.
3. The FIR relates to an incident dated 22.02.2021. It was registered at the instance of Pushpa Devi, who was the stepmother of the deceased. The deceased was the biological child of her sister and brother-in-law, and the complainant had married the brother-in-law after the death of her sister. The allegation in the FIR is that on 21.02.2021, the deceased had



an altercation with a neighbour, Yogesh @ Lala, with regard to playing a home theatre. On 22.02.2021, the complainant found that the deceased was being beaten by the aforesaid Yogesh @ Lala, Rahul, and the present petitioner, and that they were threatening to kill him. It is stated that before she could intervene, Rahul caught hold of the deceased, Yogesh @ Lala poured petrol on him, and the present petitioner lit a matchstick, as a result of which the deceased caught fire.

4. Along with the bail application, the petitioner has placed on record the Medico Legal Certificate [“MLC”] of the deceased, which shows that he arrived at Dr. Baba Saheb Ambedkar Hospital, Rohini, on 22.02.2021 at 08:25 PM with complaints of burn injuries and physical assault. At that stage, he was found to be conscious and oriented, although unfit for statement. On 23.02.2021, the deceased was referred to Safdarjung Hospital for further treatment.

5. The deceased passed away on 09.03.2021. A post mortem was conducted at Safdarjung Hospital on 10.03.2021, in which the cause of death is recorded as *“Septicemic shock as a result of ante-mortem infected thermal burned involving about 70% of total body surface area”*.

6. The petitioner has placed on record, a statement of the deceased recorded before the Investigating Officer [“IO”] on 23.02.2021, which was annexed to the chargesheet. The statement has been recorded in question and answer form, and the relevant questions are as follows¹:

“Question: How did you get burnt?”

Answer: Rahul and his brother Yogesh @ Lala burnt [me].

Question: Who poured the oil?



Answer: *Rahul had held me, Yogesh @ Lala had poured the oil, and Jitender had lit the match.*²

7. Mr. Singh submits that the only evidence against the petitioner is the dying declaration. The sheet anchor of his case is that the dying declaration is unreliable, as it does not contain a specific statement as to the fitness of the author. Mr. Singh submits, that at the time of recording the MLC on 22.02.2021 at 08:25 PM, the deceased was declared unfit for statement, yet his statement was recorded the very next day. He draws my attention to the following statement of the doctor, which has been recorded at the foot of the statement of the deceased:

“This statement was taken in front of me and the patient is conscious and oriented to time, place & person at the time of giving statement”.

8. Mr. Singh relies upon the judgment of the Supreme Court in *Paparambaka Rosamma v. State of A.P.*, [(1999) 7 SCC 695] [hereinafter, “*Paparambaka Rosamma*”], to the effect that the questions of “consciousness” and “fit state of mind” are distinct.

9. Mr. Singh further points out that the prosecution has not cited any independent or public witness, despite the incident having occurred in a public place. He states that 10 out of 22 witnesses, including all material witnesses, have already been examined, and that neither of the parents of the deceased was an eyewitness. He therefore submits that, having regard to the petitioner’s incarceration for almost five years, and the lack of credible *prima facie* material, he ought to be released on bail.

¹ The statement was recorded in Hindi, and has been translated by me.

² Emphasis supplied.



10. Mr. Chauhan, on the other hand, draws my attention to the heinousness of the offence, in which a young man of 23 years of age was allegedly burnt alive. He submits that the Courts have consistently held that a dying declaration can, in certain circumstances, form the sole basis of conviction. The post mortem report corroborates the prosecution's case that the deceased, in fact, died by reason of burn injuries inflicted upon him.

11. As far as the validity of the dying declaration is concerned, Mr. Chauhan submits that the documents filed alongwith the chargesheet have been selectively placed on record, and that there is, in fact, a prior opinion of the doctor, certifying that the deceased was fit for statement.

12. Turning first to the question of the validity of the dying declaration, and only for the purpose of assessing the *prima facie* material available at this stage, Mr. Singh's submission is that no certification of fitness appears on the face of the dying declaration. This is based upon a single document, being the statement recorded by the IO. However, the index of documents filed with the chargesheet, include a "*fitness certificate*", and two statements of the deceased, one recorded before the IO and the other recorded before the Executive Magistrate [Document Nos. 10, 11, 12]. Copies from the police file have been handed over by Mr. Chauhan and are taken on record.

13. The first of these documents consists of an application by the IO to the Chief Medical Officer, Safdarjung Hospital, which states that the deceased was then in the Intensive Care Unit of the Burn Ward. An opinion was requested as to whether the patient was fit for statement or not. On the said document, the following endorsement has been made by



the treating doctor:

*“Patient is conscious & oriented and fit for giving statement 23/02/2021 at 12:00 PM”.*³

14. Two statements were thereafter recorded, one before the IO, which has been filed by the petitioner, and another before the Executive Magistrate. The statement recorded before the Executive Magistrate also contains substantially the same questions and answers as recorded above. Out of the three documents, only one has been annexed to the present application by the petitioner.

15. In those circumstances, the reliance of Mr. Singh upon the judgment in *Paparambaka Rosamma* is, *prima facie*, of no assistance to him.

16. While the probative value and weight of the evidence will be matters for trial, it suffices to state, at this stage, that the *prima facie* material is not such as to dislodge the dying declaration.

17. In these circumstances, the heinousness and gravity of the offence, in which a young man was allegedly burnt alive, coupled with the *prima facie* case, lead me to the conclusion that this is not an appropriate case for grant of regular bail to the petitioner, despite the period of incarceration.

18. The bail application is, therefore, dismissed with these observations.

19. However, the learned Sessions Court is requested to endeavour to expedite the proceedings to the extent possible, in accordance with its Board and the age of the matters pending before it. Mr. Chauhan assures



the Court that the prosecution will cooperate in this process.

FEBRUARY 25, 2026
SS/JM/

PRATEEK JALAN, J

³ Emphasis supplied.