



\$~4

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

+ BAIL APPLN. 4409/2025
RUSTAM ALIAS MUKHIYA AND ANRPetitioners
Through: Ms. Sakshi Sachdeva, Advocate.

versus

THE STATE NCT OF DELHI & ANR.Respondents
Through: Mr. Aashneet Singh, APP.
SI Deepak Kumar, Insp.
Dharmender Kumar, P.S. Jahangir
Puri.
Mr. Neeraj Kumar, SC (DHCLSC)
for complainant.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **06.04.2026**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks regular bail in connection with FIR No. 560/2022 dated 17.06.2022, registered at Police Station Jahangir Puri, District North-West, New Delhi, under Sections 302/323/34 of the Indian Penal Code, 1860.
2. This is the third application for bail filed by the applicant before this Court. The last application [BAIL APPL. 3932/2024] was dismissed as withdrawn on 18.11.2024, with the following order:

- “1. Counsel for the petitioner seeks to withdraw the present petition with liberty to seek relief at a subsequent stage.
2. The material witnesses are yet to be examined. The Trial Court may expedite the examination of material witnesses.
3. Liberty granted.
4. The petition stands dismissed as withdrawn.



5. *Order be uploaded on the website of this Court.”*

3. The applicant has not approached the learned Sessions Court thereafter, but has filed this application directly before this Court. It is contended by Ms. Sakshi Sachdeva, learned counsel for the applicant, that, despite the order dated 18.11.2024, material witnesses remain to be examined, and in the meanwhile, the applicant has spent three years and nine months in judicial custody.

4. Ms. Sachdeva has also handed over copies of all the orders of the learned Sessions Court after the order dated 18.11.2024, which are taken on record.

5. Mr. Aashneet Singh, learned Additional Public Prosecutor for the State, submits that a co-accused [Mohd. Shamsheer Alam @ Funnu] was arrested during the course of trial and a supplementary chargesheet was filed against him. After hearing arguments on charge, in respect of the said co-accused, the learned Sessions Court framed charges against him under Sections 302/34 of the IPC on 03.05.2025. By that time, five prosecution witnesses had already been examined, but they were recalled for examination qua the said co-accused. One of them [PW-2] was examined and discharged on the next date of hearing, i.e. 20.08.2025, and directions were also given for further material witnesses to be summoned for the next date of hearing. PW-1 was similarly examined and discharged on the last date of hearing, i.e. 07.03.2026.

6. In addition to the three witnesses who had already been examined and have been recalled, Mr. Singh states that there are forty-four other witnesses, of which six are material witnesses, out of whom, two have



already been fully examined and discharged.

7. Having regard to the order of this Court dated 18.11.2024, Ms.Sachdeva submits that even the examination of material witnesses is taking an inordinate time, as the witnesses are not appearing when summoned.

8. Mr. Singh assures the Court that the prosecution will make every effort to ensure that all material witnesses are available when summoned, and that their evidence is completed expeditiously. He submits that the prosecution would also have no objection if the material witnesses are examined first, before the three police witnesses who have been recalled for examination.

9. The learned Sessions Court is requested to consider recording the evidence of the material witnesses as expeditiously as possible.

10. The bail application is disposed of in terms of the aforesaid, and without prejudice to the applicant's right to approach the Sessions Court at the appropriate stage.

11. It is made clear that if there is an inordinate delay in the recording of the evidence of material witnesses due to prosecution defaults, the applicant may approach the learned Sessions Court in such an eventuality.

12. It is also clarified that this Court has not made any comment on the merits of the case or on any proposed application before the learned Sessions Court, which may be considered by the learned Sessions Court in accordance with law.

PRATEEK JALAN, J

APRIL 6, 2026/“Bhupi/KA”/