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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 4518/2025

ASHISH KOCHAR

..... Applicant

Through: Mr. Abhijat, Sr. Adv. with Mr. Yatharth Sinha, Mr. Arnav Jain, Mr. Harsh Satyam, Mr. Prince Arora, Mr. Arjun Singh, Adv.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. Satish Kumar, APP for the State with Ms. Upasna Bakshi, Mr. Aditya Vikram Singh and Mr. Gourav Singh, Adv. SI- Vinod Kumar, PS: Mehrauli
Mr. Yatinder Bainsla, Adv. for Father of the Victim

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.05.2026

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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 case arising out of the FIR No.181/2018 dated 17.03.2018, registered at PS.: Mehrauli, Delhi under *Sections 302/307/34* of the Indian Penal Code, 1860 (*IPC*) and *Sections 25/54/59* of the Arms Act, 1959 (*AA*).

2. *Briefly put*, the present FIR arises out of the statement made by the complainant, i.e., Rakesh Kumar, President of the RWA, Chattarpur



Enclave, whereby it was alleged that the applicant along with co-accused Mr. Sandeep Gupta, being builders in the area, had pre-existing disputes with the complainant and his son Mr. Jaidev on account of unauthorized construction being done by the applicant. It is the case of the prosecution that on the night of 16.03.2018 at about 11:30 PM, near C-14, Chattarpur Enclave, the applicant along with co-accused persons allegedly assaulted Mr. Jaidev as also his associates, which led to an altercation. During the incident, the applicant is alleged to have fired a bullet, resulting in gunshot injuries to Mr. Nitin and fatal injuries to Mr. Sumit which later resulted in his death. Thereafter, the accused persons fled the spot. The injured (Mr. Nitin) and the deceased (Mr. Sumit) were taken to the hospital, where Mr. Sumit was declared brought dead.

3. Subsequently, the investigation was carried out and the applicant was arrested on 19.03.2018. The charge-sheet has since been filed and the matter is presently at the stage of prosecution evidence before the learned Trial Court, with *twenty-five* (25) out of *sixty-one* (61) witnesses having already been examined as also out of the total accused persons, two of the co-accused persons have already been granted bail, while another co-accused person has also been discharged.

4. Learned senior counsel for the applicant submits that there are material inconsistencies in the prosecution case, coupled with unexplained delay in registration of the FIR as also an absence of corroborative forensic evidence from the alleged spot. More so, *twenty-five* (25) out of *sixty-one* (61) witnesses have already examined and as the applicant has been in custody since 19.03.2018 i.e., for more than *eight years*, his prolonged incarceration without conclusion of trial is violative of his



fundamental right to speedy trial under *Article 21* of the Constitution of India. More so, he submits that a co-accused person who had caught hold the deceased and thus had an active role, has already been granted bail.

5. Learned senior counsel also submits that the applicant is suffering from serious medical ailments, for which he is undergoing continuous treatment from the Jail Dispensary and referral hospitals including AIIMS, as also for the same, interim bail had been granted on medical grounds, and pursuant whereunto he had duly surrendered on time. Thus, the conduct of the applicant, whilst every time he has been granted interim bail, has been good. Hence, if released on regular bail, the applicant will abide by the condition(s) imposed by this Court.

6. *Per contra*, learned APP for the State, whilst relying upon the Status Report, submits that the nature of allegations are serious and grave as the applicant is the main accused having fired the shots at the victims. Learned APP further submits that there are *two* prior criminal antecedents pertaining to the applicant and since only *twenty-five* (25) out of *sixty-one* (61) witnesses have been examined, there is also a likelihood of the applicant tampering with evidence, and/ or absconding if released on bail. As such, it is prayed that the present application ought to be dismissed.

7. In support, learned counsel on behalf of father of the deceased/ victim submits that although various witnesses have been examined, the important witnesses, including the Investigating Officer (*IO*), are yet to be examined and the deposition of these witnesses remain wholly vulnerable, as there exists a real likelihood that the applicant, if released on bail, may attempt to tamper with evidence or influence witnesses who are yet to be fully examined.



8. Heard. Perused as well.

9. Prolonged incarceration under all circumstances is violative of the fundamental right to life and liberty guaranteed under *Article 21* of the Constitution of India, which while considering an application like the present one of the applicant herein, is to be given relevance and importance. In such a scenario, and particularly in matters of judicial discretion, even while exercising due care and precaution and giving credence to the totality of circumstances, including the gravity of the offence, severity of punishment, stage of trial, likelihood of absconding or witness tampering, antecedents, and overall conduct of the accused, the length of incarceration also, under the said facts and circumstances involved, have also to be given credible weightage.

10. Moreover, the conduct of the applicant while languishing in jail has been “*Satisfactory*” as per the Nominal Roll received, and outside also, when out on interim bail the records reveal that there is/ are no allegations of threatening or otherwise and/ or untoward incident pointing towards the applicant which reflect that he has tried to influence the witnesses and/ or tamper with the evidence and/ or hamper the trial at any stage during the past *eight years*.

11. The aforesaid factors assume considerable significance, particularly whence the applicant is merely undergoing punishment as an accused and is yet to be pronounced guilty as a convict.

12. The Hon’ble Supreme Court has time and again held that prolonged incarceration without any likelihood of conclusion of trial in near future amounts to a violation of the fundamental right to a speedy trial guaranteed under *Article 21* thereof. In fact, in ***Union of India vs. K.A.***



Najeeb: (2021) 3 SCC 713 the Hon'ble Supreme Court has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge him/ her on bail. In a very recent judgment rendered by the Hon'ble Apex Court entitled ***Sahil Manoj Machare vs. the State of Maharashtra*** in Appeal (Crl.) No.7502/2026 dated 04.05.2026, wherein the Apex Court whilst dealing with similar circumstances, has held that *dehors* the seriousness of the offence, if the right of a speedy trial is infringed, then Court must consider the plea for bail appropriately.

13. Lastly, as apprised the other co-accused persons whose role attributed is different than that of the applicant herein, have also already been granted bail. Though the same is not a determinative factor, but offers some support to the case of the applicant.

14. In view of the factual position as also the settled position of law, and the analysis hereinabove, although there are prior criminal antecedents, the applicant can be granted bail.

15. Accordingly, keeping in mind all the above cumulative factors in the considered opinion of this Court, the applicant is entitled to grant of a regular bail. As such, the present application is allowed. The applicant be thus released on regular bail in proceedings arising out of FIR No.181/2018 dated 17.03.2018, registered at PS.: Mehrauli, Delhi under *Sections 302/307/34* of IPC and *Sections 25/54/59* AA, upon him furnishing a personal bond in the sum of Rs.50,000/- [*Rupees Fifty Thousand Only*] along with one surety of the like amount by a family member/ friend having no criminal case pending against him/ her and



subject to the satisfaction of the Jail Superintendent, and further subject to the following conditions:

- i. Applicant shall not leave NCT of Delhi without prior permission of this Court and shall ordinarily reside at the address as per prison records. If he wishes to change his residential address, he shall immediately intimate about the same to the IO by way of an affidavit.
 - ii. Applicant shall surrender his passport, if any, to the IO, within a period of *three days*.
 - iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not be switch off or change the mobile number without prior intimation to the IO concerned. Mobile location be kept on at all times.
 - v. Applicant shall report to the IO at PS: Mehrauli, Delhi once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.
 - vi. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.
16. The present bail application, along with pending applications, if any, is disposed of.
17. Copy of this order be sent to the concerned Jail Superintendent for information and compliance *forthwith*.



18. Needless to say, observations made on the merits of the matter, if any, are only for the purposes of deciding the present application and shall not be construed as expressions on merits of the matter.

SAURABH BANERJEE, J.

MAY 05, 2026/So