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

+ **BAIL APPLN. 4853/2025**

GAGAN

.....Petitioner

Through: Ms. Nusrat Hossain and Mr. Manish
Kumar Singh, Advocates

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with Insp. Chetan Singh, P.S. Khyala
Delhi

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

27.04.2026

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1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing No. 774/2022, registered at Police Station Khyala, Delhi for the commission of offences punishable under Sections 302/34 of the Indian Penal Code, 1860 (hereafter 'IPC').
2. Briefly stated, the facts of the present case are that on 12.11.2022, pursuant to DD No. 19, SI Sandeep Kumar, along with HC Suresh, had reached GGS Hospital, Raghubir Nagar, where one Azad @ Golu, aged about 24 years, had been brought in an unconscious condition by his brother, Ajay, following a quarrel. The attending doctor had declared him "brought dead" vide MLC No. 80231/22, noting multiple stab injuries caused by a sharp-edged weapon on various parts of his body. The crime team had inspected the spot, conducted photography, and seized the relevant exhibits.



During investigation, the statement of the eye-witness/complainant, Tushar, was recorded, who stated that on 11.11.2022 at about 11:00 PM, while he was present with his friends, including the deceased, an altercation had taken place with accused Deepak @ Rohit after an accidental collision. It is alleged that thereafter, Deepak, along with his associates, namely Rahul, Gagan (present applicant), Suraj, Anil, Kapil, and others, including CCLs, had arrived at the spot armed with knives and had jointly assaulted the deceased, inflicting multiple stab injuries upon him. Thereafter, all the accused persons had fled from the spot. On the basis of the MLC and the statement of the eye-witness, the present FIR under Sections 302/34 of IPC was registered. The post-mortem of the deceased was subsequently conducted at DDU Hospital.

3. The learned counsel appearing for the applicant submits that the public witnesses have turned hostile and, therefore, the material available on record is not of such high probative value as would justify an inference that the applicant was a participant in the alleged offence. It is, therefore, prayed that the applicant be released on regular bail.

4. On the other hand, the learned APP appearing for the State opposes the present bail application and submits that the incident was captured in CCTV footage installed near the spot, wherein the present applicant, along with the other accused persons, is clearly visible and his involvement in the commission of the offence is evident. It is submitted that specific roles have been attributed to the accused persons during investigation and the motorcycle bearing registration No. DL-4SDE-3526 was recovered at the instance of the present applicant. It is further submitted that blood-stained clothes of the accused persons were also recovered and the investigation



revealed their active participation in the assault upon the deceased. The learned APP further submits that charges under Sections 302/34 of IPC have already been framed against the applicant on 18.09.2024 and the matter is presently at the stage of prosecution evidence. Out of 31 witnesses, 7 witnesses have already been examined and the matter is listed for further prosecution evidence on 06.05.2026. However, on instructions from the concerned Investigating Officer (I.O.), the learned APP fairly does not dispute that the eye-witness/complainant examined before the learned Trial Court has turned hostile.

5. This Court has **heard** arguments addressed on behalf of the applicant as well as the State, and has perused the case file.

6. The allegations against the present applicant are that he, along with the co-accused persons, had participated in the assault upon the deceased resulting in his death.

7. However, it is not disputed by the learned APP for the State that the eye-witness/complainant, whose statement formed the basis of registration of the present FIR and who had attributed specific roles to the accused persons, has turned hostile during trial.

8. It is also to be noted that the applicant has remained in judicial custody since 14.11.2022 and the applicant is stated to be about 23 years of age. Charges have already been framed and the matter is presently at the stage of prosecution evidence. Out of 31 witnesses cited by the prosecution, only 7 witnesses have been examined so far, and therefore, the conclusion of trial is likely to take considerable time.

9. Considering the period of custody already undergone by the applicant, the stage of trial, and particularly the fact that the material eye-witness has



turned hostile, this Court is of the opinion that no useful purpose would be served by keeping the applicant in further judicial custody.

10. Considering the overall facts and circumstances of the case, this Court is inclined to grant regular bail to the applicant, on his furnishing personal bond in the sum of Rs.15,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:

- i) The applicant shall not leave the country without prior permission of the concerned Court and if the applicant has a passport, he shall surrender the same to the concerned trial court.
- ii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court and IO/SHO concerned.
- iii) The applicant shall appear regularly before the learned Trial Court, unless exempted.
- iv) The applicant shall not communicate with, or come into contact with the complainant or any of the prosecution witnesses, or tamper with the evidence of the case.

11. Accordingly, the present bail application stands disposed of.

12. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 27, 2026/ns/TD