



2026:DHC:506



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 21.01.2026

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BAIL APPLN. 4953/2025, CRL.M.A. 38186/2025 & CRL.M.A. 38187/2025

AVTAR

.....Petitioner

Through: Mr. S. C. Malhotra and Mr. Kunal
Kishore, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with Inspector Ishwar Singh and
Inspector Sushil Sanwaria, PS
Badarpur.**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 102/2023 of PS Badarpur for offence under Section 302/34 IPC.

2. Broadly speaking, prosecution case is as follows. According to the complainant *de facto*, near his shop, the accused/applicant, who is physically challenged and his friend Rahul were residing. On 20.02.2023 at about 10:00 pm, Rahul and the accused/applicant were quarrelling with a third person, whom the complainant *de facto* did not know. In the process of

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quarrelling, all three went in an open area behind the temple after which Rahul came back and asked the complainant *de facto* for a *danda*. On being denied, Rahul went to his *jhuggi* and brought a *danda* and went behind the temple. Thereafter, the complainant *de facto* saw the accused/applicant and the third unknown person bleeding from their heads and Rahul was assaulting the said third unknown person with the *danda*. The complainant *de facto* returned to his shop. After locking his shop while going back home, he saw the accused/applicant and Rahul sitting there in dark but the third person was not seen, so he went home. Next morning, he was informed by the priest of the temple about discovery of a dead body in the pit behind the temple. The complainant *de facto* informed the police and they apprehended Rahul and the accused/applicant from their *jhuggi*.

3. Learned counsel for accused/applicant submits that he has been falsely implicated in this case and is in jail since 21.02.2023. It is submitted that there is no reliable evidence to implicate the accused/applicant in this case. Most importantly, learned counsel for accused/applicant has taken me through Annexure P-2, which are the coloured photographs of the accused/applicant depicting him on a wheelchair being pushed by some court staff as the accused/applicant suffered amputation above knee level in both legs. It is contended on behalf of the accused/applicant that it is not possible to believe that the accused/applicant could have assaulted the deceased.

4. Learned APP assisted by the IO/Inspector Ishwar Singh opposes the

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bail application on the ground that there is clear evidence in the form of statement of the complainant *de facto*, describing complicity of the accused/applicant. It is also argued that *danda* used by the accused/applicant in the course of assault has been recovered at the instance of the accused/applicant and that *danda* bears blood stains of the deceased as per FSL report.

5. Admittedly, there is no evidence to connect the *danda* allegedly got recovered by the accused persons with them, because no finger prints were even tried to be lifted from the *danda*. Mere presence of blood stains on *danda* would connect the same, at the most, with the assault on the deceased.

6. Further, as mentioned in the FIR, the accused/applicant also had sustained bleeding injury on head. The investigator has not investigated on this aspect in order to ascertain the actual genesis of the alleged occurrence.

7. Most importantly, as mentioned above, having perused the pictures of the accused/applicant depicting his legs amputated above knee level, that too, of unequal length, I find it difficult to believe his involvement in killing the deceased. I find it difficult to believe that such person would be able to cause head injuries with *danda* to another, that too, with such a force that the injured succumbs. Even as regards the stone allegedly used, it is difficult to believe that a person of the physical stature of the accused/applicant would have been able to cause fatal assault.

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8. Of course, the above observations would be tested at the final stage by the learned trial court.

9. Considering the above circumstances, I do not find any reason to further deprive liberty to the accused/applicant. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court. Accompanying applications also stand disposed of.

10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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**GIRISH KATHPALIA
(JUDGE)**

JANUARY 21, 2026/dr