



2026:DHC:8903



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 08.10.2026

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CNR No. DLHC010053192026

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BAIL APPLN. 651/2026**ABU USMAN**

.....Petitioner

Through: Mr. Sudharshan Rajan, Mr. Hitain
Bajaj, Mr. Sambhar Sharma, Advs.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal (APP)
SI Shubham P.S. Khajuri Khas**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J (Oral.)**

1. The applicant herein seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") read with Section 528 of the BNSS in a case arising out of FIR No. 0493/2022 dated 31.07.2022 registered under sections 302/34/120B of the Indian Penal Code, 1860 ("IPC") at P.S. Khajuri Khas.

2. The prosecution case is that on 31.07.2022 at about 05:00 P.M. the victim Anwarul Haque (aged 22 years) was stabbed to death near Sherpur Chowk, Khajuri. The post mortem report records the cause of death as hemorrhagic shock resulting from a single edged sharp cutting/ stabbing weapon to the abdomen. The motive attributed to the applicant is that he wished to have a relationship with a woman named Nazra who was in a relationship with the deceased. The applicant, along with the co-accused persons, namely Ahsan, Mohd. Atin and Shahnawaj, on 30.07.2022, are stated to have conspired to commit the offence. Thereafter, on 31.07.2022,

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the accused persons allegedly lured the deceased *via* a phone call to come to Tukmeerpur Pulia on the pretext of a meeting, and upon his arrival, stabbed him.

3. The material against the applicant as per the status report is the deposition of PW-3 and PW-4 who are stated to have identified the applicant in CCTV Footage. Further, the Call Detail Records (“CDRs”) are stated to show the applicant’s coordination with the co-accused and his location at the scene of crime.

4. It is submitted that the applicant has been in judicial custody since 16.12.2022 i.e. for about 03 years and 09 months. This is the second bail application before this Court. The earlier bail application came to be disposed of as withdrawn *vide* order dated 10.04.2024. The said order reads as under:-

1. This is an application preferred on behalf of the Applicant Abu Usman S/o Sahabuddin under Section 439 Cr.P.C. read with Section 482 Cr.P.C. seeking regular bail in case FIR No. 493/2022 dated 31.07.2022 under Sections 302/34 IPC registered at PS: Khajuri Khas.

2. At the outset, learned APP for the State points out that trial is at a crucial stage where material witnesses namely, Pankaj Saini, Bijli Khatoon and Nazra Parveen are yet to be examined.

3. Mr. Sudarshan, learned counsel for the applicant seeks to withdraw the application with liberty to approach the trial court after the aforementioned material witnesses have been examined.

4. Trial Court is requested to expedite the recording of evidence of the material witnesses and not to grant unnecessary adjournments in the matter, considering that the applicant is in judicial custody since 16.12.2022.

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5. Application stands disposed of as withdrawn with liberty as prayed for, in accordance with law.

5. It is evident from the aforesaid order that the applicant was granted liberty to seek bail after the examination of the material witnesses, namely Pankaj Saini, Bijli Khatoon and Nazra Parveen, and that the trial Court was requested to expedite the recording of their evidence, considering that the applicant had been in judicial custody since 16.12.2022. Learned counsel for the applicant points out that, subsequently, Pankaj Saini and Bijli Khatoon have been examined, and that Nazra Parveen has expired during the pendency of the trial.

6. The trial Court dismissed the third bail application of the applicant *vide* order dated 08.01.2026 principally on the ground that the trial was in process and many public witnesses remained to be examined.

7. Learned counsel for the applicant submits that no recovery was effected from him despite being in custody, and that the alleged weapon of offence was recovered from the co-accused, and that the identification from CCTV footage is doubtful. It is further submitted that some witnesses who have been examined did not support the case of the prosecution. It is also submitted that the applicant has clean antecedents, and that the remaining witnesses are formal/ official witnesses.

8. Learned counsel for the State opposes the application on the grounds of the gravity of the offence, the identification of the accused persons by PW-3 and PW-4, the CDRs and the applicant's apprehension in Bangalore after approximately four months from the date of commission of the crime.

9. The principal ground on which the bail was previously refused by the

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learned trial Court to the applicant was on account of the fact that many public witnesses were yet to be examined, leading to the apprehension that the applicant may influence such witnesses. The said apprehension no longer survives inasmuch as it has been pointed out that the public witnesses have been examined. The witnesses who remain now, are official witnesses.

10. Further, it appears that the case against the applicant rests on identification from the CCTV footage and on the CDRs. The weightage to be given to the same is a matter for trial. The totality of the circumstances does not, at this stage, call for the applicant's continued detention, especially considering the period of incarceration already undergone.

11. It is also relevant that, notwithstanding the request made by this Court vide order dated 10.04.2024 to expedite the recording of evidence of the material witnesses, the trial has remained pending, and nothing has been pointed out to show that the delay is attributable to the applicant. Where the trial is unduly delayed for no fault of the accused, his right to a speedy trial under Article 21 of the Constitution of India stands infringed.

12. As noticed, the applicant has been in custody for about 03 years and 09 months. There are no other cases against the applicant.

13. The gravity of the offence, though a relevant consideration, cannot, by itself, be the sole basis for refusal of bail. In this regard, reference may be made to the judgment of the Supreme Court in **Arvind Dham v. Enforcement Directorate**, (2026) 7 SCC 330, wherein it has been observed as under:

"15.It is well settled that if the State or any prosecuting agency including, the court concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other



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prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] . The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : (2026) 1 SCC (Cri) N-14] .

14. Further, prolonged pre-trial incarceration, with no certainty as to the renaming time frame for completion of the trial, is also a relevant circumstance.

15. In the circumstances, considering the totality of circumstances including (i) the applicant's custody since 16.12.2022, i.e. for about 03 years and 09 months; (ii) the completion of examination of the public/ material witnesses, with the remaining witnesses being official witnesses; (iii) the fact that no recovery has been effected at the instance of the applicant; (iv) the evidentiary value of the CCTV footage and the CDRs being a matter for trial; (v) the absence of any other criminal case against the applicant; and (vi) the trial being unlikely to conclude in the near future, this Court is satisfied that the applicant deserves to be released on bail subject to stringent conditions.

16. Accordingly, the applicant is admitted to regular bail on furnishing a personal bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the trial Court. The same shall be subject to the following conditions:-

- i. The applicant shall not directly/ indirectly contact/ threaten/ influence any witness including PW-3, PW-4 and the family of



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the deceased or tamper with the evidence.

- ii. The applicant/accused shall appear before the Trial Court on each and every date of hearing, unless specifically exempted by the trial Court.
- iii. The applicant/accused shall not leave NCT of Delhi or travel out of the country without prior permission of the trial Court;
- iv. The applicant/accused shall provide his permanent address to the Trial Court, and also the address where he will be residing during the pendency of the case;
- v. The applicant/accused shall intimate the Investigating Officer (IO) and file an affidavit before the Trial Court regarding any change in his residential address;
- vi. The applicant/accused shall furnish his mobile number to the Investigating Officer (IO)/Station House Officer (SHO) concerned, which shall be kept in working condition at all times. The mobile number shall be kept switched on, with location services enabled at all times, and the same shall be shared with the IO. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;
- vii. The applicant/accused shall report to the IO as and when called for by the IO.
- viii. The applicant/accused shall not directly or indirectly contact the complainant, any prosecution witness, and their family members;
- ix. The applicant/accused shall not directly or indirectly make any



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inducement, threat, or promise to any person acquainted with the facts of the case, or tamper with the evidence of the case, in any manner whatsoever;

- x. The applicant/accused shall not indulge in any criminal activity during the period of bail; and
 - xi. The applicant/accused shall report to the concerned SHO, on the first Monday of every month at 11:00 a.m. and be discharged by 12:00 noon, after recording his presence and completion of the necessary formalities.
17. It is made clear that any breach of the aforesaid conditions shall entitle the State to seek cancellation of bail.
18. It is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.
19. A copy of this order be sent to the Jail Superintendent concerned for information and necessary compliance.
20. The petition is disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 8, 2026/uk/ka/nb