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

% ***Date of Decision: 19.11.2026***

\# **CNR No. DLHC010247372026**

\+ **BAIL APPLN. 2096/2026**

GULFAM .....Petitioner

Through: Mr. Prashant Singhal, Md. Zeesha, Advs.

versus

STATE (GNCT OF DELHI) .....Respondent

Through: Ms. Priyanka Dalal (APP)
SI Shiv Dayal Kumar (P.S. Dayal Pur)

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 28.10.2026

SACHIN DATTA, J. (*Oral*.)

1. By way of the present application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') the applicant seeks regular bail in the case arising out of FIR No. 295/2020 dated 26.05.2020, registered at P.S. Dayal Pur, Delhi initially under Sections 307, 34 of the Indian Penal Code, 1860 ('IPC'). The charge sheet has been filed under Sections 302, 323, 324, 34 of the IPC and Section 25/54 of the Arms Act, 1959. Charges were framed on 07.12.2022 under Sections 302,326,324, 34 IPC and Section 25 Arms Act.

2. The factual conspectus is that on 25.05.2020 at about 9:30 PM, the complainant Suhail and his uncle (Danish) were attacked in front of Asraf factory Gali No. 13, New Mustafabad, Delhi by the applicant, co-accused, Ashraf and a child in conflict with the law ('S') due to some previous dispute

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between them in their village. The applicant is alleged to have stabbed Danish multiple times on the head, arm and armpit, whereas co-accused Ashraf is alleged to have kicked and punched Danish and injured him by hitting him on the head with a brick. Danish died on 07.06.2020 and the postmortem report gives the cause of death as "shock as a result of antemortem injury to head produced by blunt force impact."

3. The applicant was arrested on 13.06.2020 and has been in custody ever since i.e. for more than 06 years 05 months. His nominal roll records that his jail conduct has been satisfactory and that he was released on interim bail on three occasions in 2022 and there is no report of misconduct during that period.

4. Learned counsel for the applicant relies upon the long period of incarceration. He further submits that as per the postmortem report, the cause of death is head injury produced by blunt force impact which is attributed to the brick-blow to the head by the co-accused Ashraf.

5. Learned APP emphasises the gravity of the offence.

6. It can hardly be gainsaid that bail is the rule and jail is the exception. This principle has time and again been re-iterated by the Supreme Court. In ***Syed Iftikhar Andrabi v. National Investigation Agency, Jammu***, 2026 INSC 503, the Supreme Court observed as under: -

> *"35. The often invoked phrase 'bail is the rule and jail is the exception' is not merely an empty statutory slogan flowing from the CrPC as Gurwinder has stated. It is a constitutional principle flowing from Articles 21 and 22 of the Constitution and the presumption of innocence which is the cornerstone of any civilised society governed by the rule of law....."*

7. In ***Manish Sisodia v. Directorate of Enforcement***, 2024 INSC 595, the

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Supreme Court has observed as follows:

> *"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception"."*

8. It is also apposite to refer to the observations of the Supreme Court in ***Dataram Singh v. State of U.P.,*** **(2018) 3 SCC 22,** as follows: -

> ***"5.*** *The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nikesh Tarachand Shah v. Union of India [Nikesh Tarachand Shah v. Union of India, (2018) 11 SCC 1 : (2017) 13 Scale 609] going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] in which it is observed that it was held way back in Nagendra Nath Chakravarti, In re [Nagendra Nath Chakravarti, In re, 1923 SCC OnLine Cal 318 : AIR 1924 Cal 476] that bail is not to be withheld as a punishment. Reference was also made to Emperor v. H.L. Hutchinson [Emperor v. H.L. Hutchinson, 1931 SCC OnLine All 14 : AIR 1931 All 356] wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days."*

9. The gravity of the offence, by itself, is no ground to refuse bail. In

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Prabhakar Tewari v. State of U.P., (2020) 11 SCC 648, it was observed as under:-

> ***"7.*** *On considering the submissions of the learned counsel for the parties, having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in Mahipal [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] for testing the legality of an order granting bail are absent in the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima facie view of the evidence on record.* ***The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.*** *The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] of the High Court granting bail. This appeal is dismissed."*

10. Prolonged custody of an under- trial prisoner where the trial is unlikely to end soon is also a valid consideration for grant of bail. This consideration has been emphasised by the apex Court even in the context of special statutes. In this regard, reference may be made to the decision of the Supreme Court in ***Union of India v. K.A. Najeeb,*** **(2021) 3 SCC 713,** wherein it was observed as follows:

> ***"17.*** *It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on*

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grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

18. Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected."

11. It is also apposite to refer to the following observations of the Supreme Court in ***Sahil Manoj Machare v. State of Maharashtra***, 2026 SCC OnLine SC 810:-

"5. *In such circumstances, referred to above, we are left with no other option but to say that the right of the accused to have a speedy trial as enshrined under Article 21 of the Constitution could be said to have been infringed.*
6. *We are mindful of the fact that the petitioner is charged with the offence of murder but time and again, we have said that*

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howsoever serious the crime may be, if the right of speedy trial is infringed, then Court must consider the plea for bail appropriately."

12. In the present case, the Court is inclined to grant bail to the applicant for the following reasons: -

i. The long period of incarceration; the applicant has been in custody since 13.06.2020 i.e., for more than 6 years and 5 months. Charges were framed on 07.12.2022 and in the nearly four years since then, all the witnesses have not been examined. The trial is, thus, unlikely to conclude in the near future.

ii. All the material witnesses have been examined and as such there is no possibility of the petitioner influencing any of the crucial witnesses.

iii. The cause of death, as per the post-mortem report is "shock as a result of antemortem injury to head produced by blunt force impact." The injuries attributable to the applicant are stab injuries caused with a knife. This is an aspect which is noticed only for the purpose of grant of bail. Needless to say, no conclusive opinion is expressed with regard thereto inasmuch as it would be for the trial Court to consider this, and other evidentiary aspects.

13. In the circumstances, the applicant is directed to be released on regular bail on his furnishing a personal bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned trial court, subject to the following conditions:

a. The applicant/petitioner shall not leave NCT of Delhi or travel

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out of the country without prior permission of the trial Court;

b. The applicant/petitioner shall appear before the learned trial Court on each and every date of hearing, unless specifically exempted by the trial Court;

c. The applicant/petitioner shall provide his permanent address to the learned trial Court, and also the address where he will be residing during the pendency of the case;

d. The applicant/petitioner shall intimate the Investigating Officer (IO) and file an affidavit before the Trial Court regarding any change in his residential address;

e. The applicant/petitioner 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, 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;

f. The applicant/petitioner shall report to the IO as and when called for by the IO;

g. The applicant/petitioner shall not directly or indirectly contact the complainant, any prosecution witness, or the family members of the deceased;

h. The applicant/petitioner shall not directly or indirectly make any 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;

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i. The applicant/petitioner shall not indulge in any criminal activity during the period of bail; and

j. The applicant/petitioner shall report to the concerned SHO, on the first Monday of every month at 11:00 a.m. and shall be discharged by 12:00 noon, after recording his presence and completion of the necessary formalities.

14. It is made clear that any breach of the aforesaid conditions shall entitle the State to seek cancellation of bail.

15. It is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case and the learned trial Court shall proceed with the trial uninfluenced by any observations made herein.

16. A copy of this order be sent to the Jail Superintendent concerned for information and necessary compliance.

17. The application is disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 19, 2026/*uk/nb*

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