



2025;DHC:947



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

Date of Decision: 10th February, 2025

+ BAIL APPLN. 4610/2024

RIHAN ALVI

.....Petitioner

Through: Ms. Santosh Dixit, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI)Respondent

Through: Mr. Laksh Khanna, APP for State
with Inspector Shashi

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

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J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

1. The present application has been filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking grant of regular bail in the FIR No. 631/2023 under Sections 365/302/34 of the Indian Penal Code, 1860 (IPC) at Police Station (P.S.) Geeta Colony.

Brief Facts

2. As per the case of the prosecution as set out in the Status Report, on 29.10.2023 an information was received at P.S. Geeta Colony which was lodged vide DD No. 71A. It is stated that as per the said information a person was lying on the road side with critical injury near Block No. 5, Geeta Colony Delhi on the street adjoining fire Brigade office. It was further stated that the person lying on the road seems to have died.



2025;DHC:947



2.1. It is stated that the I.O. rushed to the spot and found one man lying on the road who was aged 24 years with multiple stab injuries. It is stated that PCR Van and CAT ambulance reached the spot. It is stated that the person was taken to SDN Hospital where he was declared brought dead. It is stated that the dead body was then shifted to the Subzi Mandi mortuary for forensic examination.

2.2. It is stated that from the crime scene blood sample, earth control, one bamboo stick and one mobile phone make VIVO were seized.

2.3. It is stated that one information was received at the P.S. Geeta Colony wherein it was stated that four-five boys have kidnapped informer's nephew namely Ravi Kant. It is stated that the informer was taken to the hospital where he identified the deceased (victim) as his nephew namely Ravi Kant. It is stated that thereafter, the captioned FIR No. 631/2023 was registered under Sections 365/302/34 of the IPC on 30.10.2023. The informer was Joginder, the uncle of the deceased.

2.4. It is stated that on the next day another information was received at the Police Station regarding a blood-stained knife lying near the spot, which was lodged vide DD No. 39A. It is stated that the said knife was seized.

2.5. It is stated that the eye-witness of the kidnapping of the deceased, namely Joginder (who was uncle of the deceased) was examined. It is stated that as per his statement on 29.10.2023 at 7:45 PM when he was standing near House No. A-169, Gali No. 5, Rani Garden, Geeta Colony Delhi, CCL¹ 'A' residing near the house of the deceased had come along with his friends Yash and another unknown boy. It is stated that the said boys inquired about

¹ Child in Conflict with Law



Aakash, upon which he informed the said boys that no one by the name of Aakash was residing there. It is stated that thereafter, the deceased Ravi Kant came to the spot and Ravi Kant was taken away by CCL 'A' and his two friends on two (2) Scooty.

2.6. It is stated that as per the statement of Joginder, the eyewitness/informer and upon examination of the CCTV footages of the scene of crime of 29.10.2023, four assailants were identified as CCL 'A', Yash, Applicant/Rihan and Sachin.

2.7. It is stated that on the basis of a secret information and CDR analysis CCL 'A', Yash and Sachin were apprehended from Thokar No. 14 Yamuna Khadar, Geeta Colony, Delhi on 31.10.2023.

2.8. It is stated that during investigation all the boys confessed their involvement in the commission of the murder of the deceased Ravikant. It is stated that the conspiracy of the murder was hatched by the CCL 'A' with Yash, Sachin and Applicant/Rihan. It is stated that the deceased Ravikant was called by the CCL 'A' and he was lifted forcefully from the deceased's residence and brought to the DDA Park between Gali No. 7 and 8 of Block-5, Geeta Colony. It was stated that CCL 'A' stabbed the victim multiple times on vital parts. It is stated that all the accused persons after committing the crime flee away from the spot. It is stated that the CCL 'A' threw away the weapon used in the commission of the offence near the gate of the colony of the Gali No. 7 & 8 of Block No. 5, Geeta Colony.

2.9. It is stated that as per disclosure, the deceased and deceased's brother Raj were in a relationship with the sister of the CCL 'A', hence he hatched the conspiracy and committed the murder of Ravikant, with the help of the



2025;DHC:947



Applicant and other co-accused. During arguments, learned APP stated on instructions from the IO that it has been learnt that at the relevant time there was a viral video circulating wherein Raj is seen sexually assaulting the sister of CCL 'A' and this was the motive of the murder.

2.10. It is stated that the Applicant/Rihan was arrested on 01.11.2023 and he disclosed to be involved in the commission of offence of this case.

2.11. It is stated that at the instance of the CCL 'A' and Yash two (2) Scooty used in the commission of the offence were recovered.

2.12. It is stated that the CCL 'A', Applicant/Rihan and Yash are seen in the CCTV footages of 29.10.2023 and they were identified during the TIP proceedings by the eyewitness. It is stated that in these CCTV footages, the deceased is seen with the Applicant/Rihan and the other co-accused.

2.13. It is stated that after the investigation, a PIR against CCL 'A' and chargesheet against the accused Applicant/Rihan, Yash and Sachin has been filed in concerned Court.

2.14. It is stated that charges were framed on 09.04.2024 against all the accused persons and the trial is pending. It is stated that the next date of hearing before the trial court is 18.03.2025.

2.15. It is stated that the eye-witness/informer Joginder has been bound down for recording of his evidence on 18.03.2025 and he is a crucial public witness as he has identified the accused.

Arguments of the Applicant

3. Learned counsel for the Applicant states that the Applicant has been falsely implicated in the case by the police of PS Geeta Colony. She states that the Applicant had nothing to do with the concerned FIR.



- 3.1. She states that the Uncle of the deceased i.e., Joginder has falsely implicated the Applicant herein in the captioned FIR.
- 3.2. She states that the chargesheet has been filed and no further investigation is being done.
- 3.3. She states CCTV footage which has been filed by the police, the Applicant is not seen in the said CCTV footage and no identification of the Applicant can be done on the basis of the said CCTV footage.
- 3.4. She states that the case of prosecution against the Applicant herein is only on the basis of the circumstantial evidence.
- 3.5. She states that the co-accused Sachin has been released on bail by this Court vide order dated 11.11.2024 in Bail APPL No. 3422/2024.
- 3.6. She states that the Applicant has no criminal antecedents and no other case is pending against the Applicant.
- 3.7. She states that the Applicant has been in jail for 1 years 2 months and 15 days as on 16.01.2025. She states that conduct of the Applicant in the jail is satisfactory.

Arguments of the State

4. In reply, the learned APP states that the deceased Ravikant can be clearly seen in the CCTV footage walking with the Applicant and the other co-accused on 29.10.2023. He relies upon the snapshots of the CCTV footage for the relevant time of 19:43 hours, which shows the deceased, the Applicant/Rihan and other co-accused i.e., Yash and CCL 'A'. The Court Master is directed to place the snapshot on record.
 - 4.1. He states that the other co-accused Sachin who has been granted bail on 11.11.2024, on which the Applicant relies was not seen in the CCTV



footage with the deceased and also no TIP was conducted for the accused Sachin. He states though CCTV footage of the relevant time showing Sachin near the scene of crime is also available on record.

4.2. He states that the Applicant along with CCL 'A' and other co-accused actively participate in the kidnapping of the deceased.

4.3. He states that the Applicant can be seen in the CCTV footage in which he along with the CCL 'A' and other co-accused forcefully brought the deceased with them at the scene of crime where he was brutally murdered.

4.4. He states that the Applicant was identified by the eye-witness i.e., the uncle of the deceased i.e., Joginder during the TIP proceedings.

Analysis and conclusion

5. This Court has heard the learned counsel for the parties and perused the record.

6. Before adverting to the facts of the present case it would be apposite to refer to the factors which are to be taken into consideration for granting bail to an accused.

7. The Supreme Court in the case of **Prasanta Kumar Sarkar v. Ashis Chatterjee**², **State of Uttar Pradesh v. Amarmani Tripathi**³, and **Deepak Yadav v. State of Uttar Pradesh**⁴ has set out the conditions to be considered by Court while granting bail, which are summarized as under:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

² (2010) 14 SCC 496.

³ (2005) 8 SCC 21.

⁴ (2022) 8 SCC 559.



- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behavior, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of justice being thwarted by the grant of bail.

8. Recently, the Supreme Court in the case of **X v. State of Rajasthan**⁵ has held that in cases involving serious offences Court should not be lenient in granting bail as the same impacts the trial. The relevant para of the said judgment reads as under:

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and

⁵ 2024 SCC OnLine SC 3539.



orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

(Emphasis supplied)

9. In the present case the investigation as per the prosecution has revealed that the Applicant herein has played significant/active role in the kidnapping of the deceased and the commission of the offence of murder. Further as per the CCTV footage the Applicant for 29.10.2023 at 19:43 hours can be seen walking away along with the deceased and the other co-accused on the day of incident of the murder of the deceased i.e., Ravikant. The Applicant herein has been positively identified by the eye-witness i.e., Joginder during the TIP proceedings.

9.1. The chargesheet already stands filed, charges have been framed vide order dated 09.04.2024 and the trial is at a crucial stage since the testimony of the eye witness Joginder (uncle of the Applicant, who is the complainant) is yet to be recorded. The ratio of the judgment of Supreme Court **in X v. State of Rajasthan** (supra) is squarely applicable to the facts of this case.

9.2. Learned APP has sufficiently distinguished the case of the co-accused Sachin from the Applicant herein.

10. In the overall conspectus of the factual matrix, the gravity of the offence, considering the stage of the trial and the settled position of law and further keeping in mind the yardsticks of granting bail to any accused



2025;DHC:947



involved in serious offence(s) like the present one, the Applicant has not been able to make out a fit case for grant of bail at this stage.

11. With the aforesaid directions/observations the present application stands dismissed along with pending application if any.

12. Needless to mention, observations made in the present order are purely for the purpose of adjudicating the present application and shall not be treated as an expression on the merits of the matter.

13. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 10, 2025/mt/sk

[Click here to check corrigendum, if any](#)