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

Date of decision: 14.02.2025

+ BAIL APPLN. 4716/2024
DEEPANSHU @ FUN

....Petitioner

Through: Mr. Ashutosh Bhardwaj, Mr. Sanju
Gupta, Mr. Lalit Kumar Sharma, Mr.
Deepanshu Lakra and Mr. Akshay
Tyagi, Advocates (through VC)

versus

STATE (GOVT OF NCT, DELHI) & ANR.Respondents

Through: Mr. Laksh Khanna, APP for the State
SI Paramjeet, PS Ranhola

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This present bail application has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking regular bail in FIR No. 70/2020 registered at Police Station (P.S.) Ranhola, Delhi for offences under Sections 302/120-B of Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959 ('Arms Act')

Brief Facts

2. The case of the prosecution as borne out from the status report is that on 27.01.2020, on receipt of a DD No. 08A at P.S Ranhola, the police arrived at Balaji Action Hospital, Paschim Vihar, Delhi wherein the victim named Sahil Lakra (deceased) was found under treatment and the doctor in the MLC bearing no. 8839/2020 mentioned that gun-shot injury has been caused to victim-Sahil Lakra at 12:20 AM in a white Santro (car).



2.1. It is further stated that the statement of the eye-witness, namely, Sachin Narwal was recorded wherein he stated that on 26.01.2020 at about 10:30 PM he along with his friends namely Vishal Lakra, Sahil Lakra (deceased), Shrey Lakra, Deepak Lakra, Jatin Lakra and Deepak were sitting in the Sahil Lakra's father office. It is stated during the said time, firstly co-accused named Saurabh Khatri came there, sat for a while and took off, after which the Applicant/Deepanshu (accused) came there and asked for Saurabh Khatri. It is stated that thereafter, when Sachin Narwal along with Sahil Lakra (deceased) and Applicant-Deepanshu were going in a Santo Car, the Applicant-Deepanshu as well sat on the back seat of the car. Sachin Narwal was driving the car and Sahil Lakra (deceased) was sitting on the passenger seat in the front of the Car.

2.2. It is stated that while Sachin Narwal was driving and when they reached near Shiv mandir, an altercation occurred between Sahil Lakra (deceased) and Applicant/Deepanshu. And, thereafter the Applicant/Deepanshu shot Sahil Lakra's point blank on the head (deceased) with a pistol.

2.3. It is stated that Sahil Lakra was taken to the hospital. In these circumstances, FIR was registered under Section 307 of IPC. It is stated that, while receiving the treatment Sahil Lakra (deceased) was referred to RML Hospital, however, on 29.01.2020 Sahil Lakra expired during the treatment and Sections 302/120-B were added in the said case and investigation ensued.

2.4. He further stated that due to an old dispute Applicant-Deepanshu had shot Sahil Lakra (deceased) in the head.



2.5. It is stated that during investigation, along with the statement of Sachin Narwal (Eyewitness – PW1), statement of other witnesses namely Vishal Lakra (PW-2), Jatin Lakra (PW-3), Shrey Lakra (PW-4), Deepak Lakra (PW-9) and Sachin Lakra were recorded and all of the said witnesses have supported the case of prosecution that the Applicant-Deepanshu shot the deceased Sahil Lakra.

2.6. It is further states that during the investigation, Applicant-Deepanshu was arrested on 28.01.2020 and his disclosure statement was recorded in which he disclosed that he had a quarrel with Deepak, Sachin Lakra and Sahil Lakra (deceased) on 21.09.2019 and during the said quarrel Sahil Lakra (deceased) had assaulted him with an iron rod. He stated that although the matter was settled amicably and no complaint was made, however, he wanted to take revenge from Sahil Lakra (deceased), therefore, he had made a plan to kill Sahil Lakra along with the co-accused Saurabh Khatri. He stated that he received the Pistol and 02 Live cartridges from co-accused Saurabh Khatri which belonged to his late brother Jatin. He stated on 26.01.2020 the co-accused Saurabh Khatri has gathered the information about Sahil Lakra and as per the plan it was decided that the Applicant-Deepanshu would sit in the car with Sahil Lakra (deceased) and Sachin Narwal and further would shoot Sahil Lakra in his head through the above pistol received from the co-accused Saurabh Khatri.

2.7. It is stated that thereafter co-accused Saurabh Khatri as well was arrested and, in his statement, recorded under section 161 Cr.P.C he disclosed that he helped in planning the murder of Sahil Lakra (deceased) and further he also confirmed the fact that he provided the pistol and 02 live cartridges to Applicant-Deepanshu to kill Sahil Lakra.



2.8. Furthermore, during investigation at the instance of Applicant/Deepanshu one improvised pistol 7.65 mm bore as well as one 7.65 mm live cartridge were recovered. It is stated that one 7.65 mm empty cartridge case was found in the Santro Car during inspection by Crime Team. The said recovery of the pistol, live cartridge and empty cartridge case was sent to the FSL for expert opinion wherein the result clearly opined that the empty cartridge found in the deceased car was fired by the weapon of offence i.e. pistol recovered from the Applicant/Deepanshu.

2.9. It is stated that the case is pending trial before the Ld. Trial Court and Charges against the accused persons were framed on 12.08.2024 for offences under Sections 302/120-B of IPC and Sections 25/27 of the Arms Act. The matter is presently at the stage of examination of the witness wherein 12 out of 32 witnesses stands examined and the next date of hearing before the Trial Court is 18.03.2025.

Arguments of the Applicant/accused

3. Learned counsel for the Applicant states that the Applicant herein was arrested on 28.01.2020 and since then he has been lodged in jail. He states that as per the record as on 10.02.2025 the Applicant has been in custody for over a period of 5 years 13 days.

3.1. He points out various contradictions in the testimonies of public witness that have come on record and states that these contradictions create a major doubt on the case of the Prosecution.

3.2. He states that there is no criminal antecedent against the Applicant and being a permanent resident of Delhi as such there are no chances of the applicant for fleeing or tampering with any evidence if he is admitted to bail.



3.3. He states that investigation has already been completed, chargesheet has been filed and charges as well stands framed by the Trial Court. He states that as public witness as well stands examined and the remaining witness which are yet to be examined are all official witness being doctors and police officials, therefore, there is no likelihood of Applicant tampering with the evidence.

3.4. He further states that the Applicant undertakes to make himself available as and when directed by this Court or as required by the police officials/IO.

3.5. He states that the Applicant is entitled to the benefit of bail on the basis of parity since the co-accused Saurabh Khatri has already been admitted to bail by the coordinate Bench vide order dated 25.10.2024.

3.6. He states that since the trial is likely to take a considerable amount of time; therefore, no useful purpose would be served for keeping the Applicant in judicial custody.

Arguments of the Respondent-State

4. In reply, Mr. Khanna, learned APP opposes the bail application of the Applicant. He states that the present case is a case involving commission of an offence of murder with pre-meditation and the allegations levelled in the FIR against the Applicant are very serious and grave in nature.

4.1. He states that the Applicant/Deepanshu herein killed the deceased Sahil Lakra by firing a gun shot and it was planned murder, which was executed with the co-accused Saurabh Khatri in a well-planned manner.

4.2. He states that the eye-witness account of Sachin Narwal (PW-1) and Vishal Lakra (PW-2) is sterling and proves the case of the prosecution. He states that the FSL result as well cannot be overlooked wherein the result



concluded that the empty cartridge recovered from the car had been discharged through the pistol recovered from the accused/Applicant-Deepanshu. Therefore, this as well makes out a strong *prima facie* case to believe that the Applicant has committed the offence.

4.3. He states that the as per the Nominal Roll the jail conduct of the accused has been unsatisfactory and 9 punishment tickets have been issued against him for quarrelling and keeping prohibited articles, therefore, the Applicant does not deserve to be enlarge on bail.

4.4. He states that charge-sheet was filed on 23.04.2020; charges were framed on 30.08.2022 and thereafter 12 witnesses already stand examined and therefore the trial has been proceeding smoothly. He states that the incident happened on 27.01.2020 and due to the Covid pandemic in March 2020 until 2022 due to the restricted and limited functioning of Courts, the framing of charge was delayed. However, once the Court started functioning the trial has proceeded smoothly. He states therefore there has been no delay in completing the trial by the prosecution.

4.5. He states previously as well the regular bail application of the Applicant filed before the ASJ-03, West District, Tis Hazari Courts, New Delhi (Trial Court) has already been dismissed vide order dated 02.12.2024.

Analysis and conclusion

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

6. Before advertng 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**¹, **State of Uttar Pradesh v. Amarmani Tripathi**², and **Deepak Yadav v. State of Uttar Pradesh**³ 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;
- (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 on 27.11.2024 in Special Leave Petition (Criminal) No. 13378 of 2024 titled as **X v. State of Rajasthan**⁴ made observations vis-à-vis for grant of bail in cases involving serious offenses. The relevant portion of the said order 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

¹ (2010) 14 SCC 496.

² (2005) 8 SCC 21.

³ (2022) 8 SCC 559.

⁴ 2024 SCC OnLine SC 3539.



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 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, there is eye-witness account, scientific evidence and recovery of the weapon of offence at the instance of the Applicant/accused, which prima facie connect the accused with the murder in question. The Applicant as per the prosecution has played the significant/active role in the commission of the offence of murder with pre-meditation, wherein he is being identified by the eye-witnesses as the person who shot Sahil Lakra (deceased) at point blank range. Further the fact that recovery of weapon of offence has been affected at the instance of Applicant and FSL results concluded that the empty case recovered from the Car had been discharged through the pistol recovered from the Applicant *prima facie* also establishes the involvement of the Applicant in commission of the offence committed.

10. The alleged role of the Applicant is graver than the role of the other co-accused Saurabh Khatri, who has been enlarged on bail. The allegation against the co-accused is providing the pistol and of conspiracy; though there is no actual participation during the commission of the offence. The said contention raised by Applicant have already been considered by the Trial Court as well vide order 02.12.2024 and this Court is in agreement



with the same. It would be relevant to quote the said observations which reads as under:

“Co-accused Saurabh Khatri has been enlarged on regular court bail by Hon’ble High Court of Delhi vide order dated 25.10.2024. However, his role in the reported incident is entirely different from that of applicant/accused Deepanshu @ Fun and thus, no ground for parity is made out. While accused Deepanshu @ Fun is alleged to be the person who had given the gunshot injury to the deceased in the presence of the complainant, the role ascribed to the co-accused Saurabh Khatri is of arranging for the weapon of offence and some conspiracy as a result of which the deceased was murdered. No active role in the incident has been ascribed to accused Saurabh Khatri and his name had cropped up in the disclosure statement of accused Deepanshu @ Fun. Thus, no ground of parity is made out.”

Hence, the Applicant cannot seek the bail on the ground of parity.

11. Learned counsel for the Applicant urged that there are contradictions, which occurred in the testimonies of the public witness. In this regard it would be relevant to refer to the observations made by the Coordinate Bench of this Court in **Raju v. The State and connected matters**⁵ wherein it has been observed that the Court while deciding a bail application is confined to examine whether a prima facie case exists against the Applicant or not and it is not for this Court to undertake a meticulous analysis of the evidence or delve into the credibility of the prosecution’s witnesses and it cannot form the sole basis for granting bail. This Court is therefore not commenting upon any alleged contradictions.

12. The Nominal Roll dated 10.02.2025 shows that the jail conduct of the Applicant has been unsatisfactory.

⁵ BAIL APPLN. 4455/2024 (at para 5 and 10)



13. By applying the aforesaid judgments and keeping the interest of the society and the public as well as the interest of the accused at the same scale, this is not a case where the accused can be released on bail.

14. The charge-sheet already stands filed, charges have been framed vide order dated 02.12.2024 and the trial is at a crucial stage wherein 12 out of 32 witnesses have been examined. This Court is satisfied that there has been no undue delay by the prosecution in completing the trial and there has been substantial progress as noted above. The Supreme Court in **X v. State of Rajasthan** (supra) has frowned upon granting bail to the accused at this stage of trial, therefore, the ratio of the said judgment is squarely applicable to the facts of this case

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

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

17. 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.

18. 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 14, 2025/MS/hp