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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 24th September, 2026**# **CNR No. DLHC010457882026**

+ CRL.REV.P. 566/2026, CRL.M.A. 29853/2026, CRL.M.A. 29854/2026 & CRL.M.A. 29855/2026

MUKESH@DUDIYA

.....Petitioner

Through: Mr. Suchit Kohli, Adv.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP
Mr. Summinder Paswan, Adv. for R-2
(Through VC)
Mr. Parveen Dabas and Mr. Rahul
Soni, Advs. with Mr. B.N. Sharma,
father of deceased (Through VC)
M: 7217748867
Email: jatinsharma1399@gmail.com
SI Naresh Kumar, PS Bindapur
M: 7976296173

CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present petition has been filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking setting aside of the order dated 30th January, 2026, and 07th March, 2026, passed by the Additional Sessions Judge-05, South-West District, Dwarka Courts, Delhi, in SC 651/2024, arising out of FIR 276/2024 dated 27th June, 2024, registered at Police Station ("PS") Bindapur, Dwarka, Delhi, under Sections



302/34 of the Indian Penal Code, 1860 (“IPC”).

2. A Chargesheet dated 23rd September, 2024, was filed by the concerned Investigating Officer (“IO”) before the Trial Court, under Sections 302/34/120B of the IPC. By the aforesaid order dated 30th January, 2026, the Trial Court held that a *prima facie* case under Sections 302/34 of the IPC was made out against the petitioner, and thereafter, by order dated 07th March, 2026, framed charges against him under the said Sections.

3. It is the case of the prosecution that on 26th June, 2024, at about 09:33 PM, a Police Control Room (“PCR”) call regarding an assault upon a boy with sticks was received at PS Bindapur and recorded by *DD no. 167A*. The police officials reached the spot at which the alleged incident had occurred, i.e., *Chatt Ghaat, Rajapuri, Gali no. 5, Uttam Nagar, New Delhi*, where a person informed them that two persons had been assaulted with sticks and a knife by three accused persons, including the petitioner herein. One of the two persons, namely, Mr. Nitin Bhaskar, had been stabbed with a knife and taken to a hospital for treatment. He was subsequently declared dead.

4. Learned counsel appearing for the petitioner submits that there is no *prima facie* case against the petitioner and the charges have been wrongly framed against him.

5. He submits that though the petitioner was present at the site of incident when the murder of the deceased person took place, he was only trying to help the deceased person, avert any untoward incident, and de-escalate the situation.

6. He draws the attention of this Court to the Statement of Mr. Manik Chand dated 27th July, 2024, under Section 161 of the Code of Criminal Procedure, 1973 (“CrPC”), wherein, he has stated that the petitioner and



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another person, namely, Mr. Prem Singh, had taken the deceased person to Jyoti Clinic, Pratap Garden on Mr. Prem Singh's motorbike.

7. He, thus, submits that the impugned order dated 07th March, 2026, framing charges against the petitioner ought to be set aside.

8. *Per contra*, learned Additional Public Prosecutor ("APP") appearing for the State vehemently opposes the present petition.

9. He submits that there is nothing on record indicating that the petitioner had no role, or did not actively participate in the incident which resulted in the murder of the deceased person.

10. He further submits that the documents on record clearly show that the petitioner had an active role at the time of the incident, and that all the issues raised by the petitioner are matters of trial.

11. Though not a party, however, learned counsel appearing for the father of the deceased person is present before this Court and submits that the presence of the petitioner has not been denied on the date of the incident, and reiterates that the petitioner had an active role in the death of the deceased person.

12. He further submits that the role of the petitioner is also evident from the CCTV footage.

13. Having heard learned counsel appearing for the parties, this Court notes that the Trial Court, *vide* order dated 30th January, 2026, has held as follows *qua* the petitioner herein:



“xxx xxx xxx

Further, it is seen qua accused Mukesh @ Dudiya, he was the one who had pointed out to accused Ashok about the deceased and while accused Ashok was stabbing the deceased, the co-accused Mukesh fell over the deceased uncontrolled. The presence of the accused Mukesh is seen at the spot at the time of commission of offence alongwith other accused persons and his role has been provided in the statement of witnesses including to be that of the witness Vijay. It is submitted that accused Mukesh had caught hold of

the deceased while Ashok was assaulting him.

It is seen that statement of witnesses namely Mahinder @ Bunt, Sarwan, Manik Chand, Jatin, Dinesh, Ashok were recorded under Section 161 Cr.P.C provide the role of the accused persons. Further, the testimony of Vijay who had brought the deceased to Indira Gandhi Hospital also provides the role of the accused persons Ashok, Varun and Mukesh.

xxx xxx xxx”

14. Perusal of the aforesaid clearly shows that the petitioner was seen pointing out the deceased person to the main accused person, namely, Mr. Ashok Kumar, who stabbed the deceased person.
15. Further, the Trial Court has taken cognizance of the fact that while the main accused person was stabbing the deceased person, the petitioner was seen at the spot, at the time of commission of the offence, along with other accused persons.
16. It is also noted that the Trial Court has categorically recorded that the petitioner had caught hold of the deceased person while he was being assaulted by the main accused person.
17. This Court is informed that the examination of witnesses before the



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Trial Court has already commenced.

18. Accordingly, this Court does not consider that there is any ground to interfere with the impugned order dated 30th January, 2026 passed by the Trial Court. All these issues, as well as the defence raised by the petitioner, are matters of trial, and cannot be considered at this stage.

19. Further, no error is found in the order passed by the Trial Court, as the same is based on *prima facie* evidence, which the Trial Court has considered sufficient to frame charges against the accused persons, including the petitioner.

20. This Court also notes that the charges against the petitioner are grave, i.e., under Sections 302/34 of the IPC, for murder of the deceased person.

21. The petitioner would, therefore, have to face trial and raise his defence before the Trial Court.

22. In view of the aforesaid discussion, this Court is not inclined to interfere with the impugned order passed by the Trial Court.

23. Accordingly, the present petition is dismissed.

24. The pending applications also stand disposed of.

MINI PUSHKARNA, J

SEPTEMBER 24, 2026/KR