



2025:DHC:10565



\$~4

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

%

Date of Decision: November 27, 2025+ **BAIL APPLN. 3320/2025 & CRL.M.A. 25919/2025,**
CRL.M.A. 25920/2025

NEELAM

.....Petitioner

Through: Mr. Dhruv Gupta, Mr.
Akarsh Gupta & Ms.
Amishka Gupta, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. S.K. Gautam, APP for
the State.
Insp. Manish Bhati, PS
Bhalswa Dairy.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (ORAL)**

1. By the present bail application, the applicant seeks regular bail in FIR No. 62/2019 dated 12.02.2019, registered at Police Station Bhalswa Dairy, for offence under Section 365 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, on 12.02.2019, the above FIR was registered at the behest of complainant/Mukesh, regarding the abduction of his brother Sanjay, who was an auto driver. On the same day, the dead body of Sanjay Kumar along with his auto, was found in the area of P.S. Alipur.

3. The applicant was arrested along with her brother/Shiv Kumar on 20.02.2019, allegedly, on the basis of a secret



2025:DHC:10565



information that the applicant and the main accused-her brother/Shiv Kumar are in possession of the mobile phone and keys of the Auto Rickshaw, which belonged to the deceased/Sanjay Kumar.

4. The chargesheet was filed under Sections 365/302/34 of the IPC and the charges have been framed.

5. The third Bail Application, seeking regular bail, was preferred by the applicant, which was dismissed by the learned ASJ *vide* Order dated 24.02.2025.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

7. He submits that there is no direct evidence and she was only arrested on the basis of the disclosure statement of her brother/Shiv Kumar and her own disclosure, which they had allegedly given while in custody.

8. He submits that there are no public witnesses to the alleged recovery of the mobile phone and key of the Auto Rickshaw

9. He further submits that there is no CCTV Footage to support the case of the prosecution and ascertain the role of the applicant.

10. He further submits that she had been enlarged on interim bail on one occasion which was never misused by her.

11. He also submits that the applicant has been in JC since 21.02.2019 and out of 24 witnesses only 5 witnesses have been examined and the trial is unlikely to conclude in the near future and hence, the present application may be allowed.

12. *Per contra*, the learned Additional Public Prosecutor for



2025:DHC:10565



the State vehemently opposes the grant of any relief to the applicant.

13. He submits that the applicant and her brother, pursuant to being arrested, have disclosed that they have murdered the victim/Sanjay Kumar.

14. He further submits that the weapon of offence i.e. a knife was also recovered at the instance of the applicant and the co-accused person and the FSL report is awaited.

15. He also submits that the applicant is a habitual offender and has been found involved in another case of similar nature pertaining FIR No. 69/2019 registered at P.S. Keshav Puram under sections 365/302/201/392/411/34 IPC.

16. Submissions heard and the material on record perused.

17. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, the period of incarceration is also a relevant factor that is to be considered.

18. The allegations in the present cases are grave in nature. It has been alleged that the main accused/brother of the applicant strangled Sanjay Kumar and then the two of them decapitated his dead body.



2025:DHC:10565



19. As per the prosecution, there is one witness, who has seen the applicant and the other accused person with the victim, prior to his death.

20. However, undisputedly, there is no public witness or CCTV footage to ascertain the role of the applicant herein. Neither is there any person who has witnessed the applicant committing the murder of the victim.

21. Though it is alleged that the recovery of the mobile phone of the victim and the key of the Auto Rickshaw was at the instance of the applicant, the same is controverted by the applicant, who has stated that the mobile phone and keys were planted, she has been falsely implicated and the alleged recovery was also not witnessed by any independent witness.

22. Hence, the veracity of the allegations and the defence raised would be tested during the course of the trial and cannot be commented upon at this stage.

23. Admittedly, the applicant is in custody since 21.02.2019 i.e. almost 7 years. The investigation is already complete and the chargesheet has also been filed.

24. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeer*** : AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

25. While it cannot be denied that the allegations in the present case are grave in nature, the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and***



Another : Crl.A.2787/2024 has observed as under:

“19. 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 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.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

26. The continued incarceration of the applicant will result in the denial of her fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in near future.

27. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

28. Admittedly till date only 05 out of 24 witnesses have been examined and thus, the trial even at this stage is not likely to conclude in near future considering that almost 20 witnesses still remain to be examined.

29. It has also been informed that the examination of the witnesses is likely to take further time as the FSL report is awaited. Despite almost six years having elapsed since the chargesheet was filed, the FSL report is yet to be obtained. Considering there is no timeline for the FSL report to be provided, the applicant cannot be made to suffer an indefinite



incarceration because of the same.

30. It is also argued by the learned APP that the applicant is involved in another case of a similar nature and the applicant is a habitual offender. Insofar as the other antecedent of the applicant is concerned, it is also settled law that criminal antecedents of an accused cannot be a basis for refusal of bail [**Ref. Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648**]. Further, the Applicant was already released on bail in the previously filed FIR No. 69/2019 at Police Station Keshav Puram.

31. Further, the applicant being a woman is undeniably entitled to special consideration while dealing with the question of bail as enshrined in provisions of Section 437(1) of Cr.P.C.

32. In view of the above, I find no cogent reason for keeping the applicant in further incarceration.

33. The applicant is therefore admitted on bail and is directed to be released on furnishing a personal bond for a sum of ₹20,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant 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;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial



2025:DHC:10565



Court as and when directed;

- d. The applicant shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

34. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

35. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

36. The bail application is allowed in the aforementioned terms. Pending applications also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 27, 2025
“SK”