



2026:DHC:5577



\$~4 & 5

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

% *Date of Decision: 13.07.2026*

+ **BAIL APPLN. 1859/2026**

HEMANT GUPTA ALIAS HEMUPetitioner

Through: Mr. Sujit Kumar and Mr. Rohit Singh,
Advocates.

versus

THE STATE GOVT NCT OF DELHIRespondent

Through: Mr. Sanjeev Sabharwal, APP for State
with Inspector Kaushlesh Kumar, PS
Swaroop Nagar.

+ **BAIL APPLN. 2014/2026**

LOKESH KUMARPetitioner

Through: Mr. C. M. Sangwan and Mr. Saksham
Aggarwal, Advocates.

versus

THE STATE (GOVT. OF NCT DELHI)Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with Inspector Kaushlesh Kumar, PS
Swaroop Nagar.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicants seek regular bail in case FIR No. 634/2022 of PS Swaroop Nagar for offence under Section 302 IPC and Section 25/27 of



2026:DHC:5577



Arms Act.

2. I have heard both the learned counsel for accused/applicants as well as learned APP for State assisted by Investigating Officer/Inspector Kaushlesh Kumar.

3. Broadly speaking, the allegation against the accused/applicants, as culled out from the statement of the alleged eye witness, Prince Kumar is as follows. On 22.10.2022, when the deceased, Dheeraj @ Nanhe was sitting with his friends namely, Prince, Shubham and Rohit at the spot of the alleged occurrence and consuming alcohol, at about 08:15 pm three persons came on a motorcycle. The deceased requested the motorcyclists for a cigarette which led to a verbal altercation followed by a physical scuffle. During the scuffle, one of the persons on the motorcycle took out his pistol and shot the deceased dead, after which all three motorcyclists fled the spot. Those three persons who came on motorcycle were co-accused Shamsher and both present accused/applicants as per prosecution.

4. Learned counsel for accused/applicant Hemant Gupta submits that on the grounds of parity with the co-accused Shamsher, he deserves to be granted bail. It is submitted that the role ascribed to the co-accused Shamsher and the accused/applicant Hemant Gupta is similar in the sense that neither of them fired at the deceased. On this aspect, learned APP for State, on instructions of the Investigating Officer, fairly admits that the SLP



filed by the complainant *de facto* against bail granted to the co-accused Shamsher was dismissed and the prosecution did not opt to challenge the bail granted to the co-accused Shamsher. That being so, on parity the present accused/applicant Hemant Gutpa also deserves to be released on bail.

5. As regards the accused/applicant Lokesh Kumar, the allegation of the prosecution is that he fired the fatal shot at the deceased. Learned counsel for the accused/applicant Lokesh Kumar contends that no recovery was affected from him; that the alleged place and time of occurrence was dark, so “no ballistics were possible”; that all crucial witnesses of prosecution stand examined and there are material contradictions in their testimonies. It is further submitted that since the accused/applicant Lokesh Kumar is in custody since March 2023, this is a fit case to grant him bail.

6. On the other hand, learned prosecutor strongly opposes the bail application of accused/applicant Lokesh Kumar on the grounds of severity of the offence. In support of his arguments, learned APP for State has played in Court the CCTV footage of the alleged incident, which categorically depicts the accused/applicant Hemant Gupta scuffling with one of the eye witnesses while the accused/applicant Lokesh Kumar is seen returning with a pistol in his hand.

7. As regards to the contradictions in the testimonies of prosecution witnesses, on which the learned counsel for accused/applicant Lokesh



2026:DHC:5577



Kumar relies, it is trite that at the stage of bail, the Court shall not minutely examine the evidence on record. The bail order has to be written cautiously by the Court, so that it does not become a judgment without trial. Any detailed analysis of the evidence on record would certainly prejudice either the case of conviction or the case of acquittal. That is the reason, I am not inclined to comment on the alleged discrepancies and contradictions. For present purposes, what is to be considered is the role attributed to the accused/applicant and an unexplained CCTV footage which depicts the accused/applicant returning from the spot with a pistol in his hand. It is not that the pistol allegedly used in the offence has not at all been recovered. As per prosecution, the same was recovered from the co-accused Shamsher Ansari.

8. As regards the argument that crucial witnesses of prosecution already stand examined, it is clarified by the Investigating Officer that there are two prosecution witnesses, whose cross-examination is yet to commence.

9. Considering the overall circumstances as described above, the application filed by the accused/applicant Hemant Gutpa is allowed and he is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court. But the bail application filed by accused/applicant Lokesh Kumar is dismissed.



2026:DHC:5577



10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicants.

**GIRISH KATHPALIA
(JUDGE)**

JULY 13, 2026/dr