



2025:DHC:5837



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 21.07.2025

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BAIL APPLN. 2175/2025**BANTI KUMAR MATHUR**

.....Petitioner

Through: Mr. Kaushal Yadav, Advocate.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for State with
IO/Inspector Pardeep Kumar, PS
Harsh Vihar**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 114/2025 of PS Harsh Vihar for offence under Section 103(1)/3(5) of BNS. On service of notice, State filed status report.
2. Learned counsel for the accused/applicant seeks adjournment, but keeping in mind the issue of liberty involved and the overall circumstances of this case, I heard the learned APP for State assisted by IO/Inspector Pardeep Kumar, and examined the investigation file.
3. Broadly speaking, the prosecution allegation is that the deceased was beaten to death by accused persons including the accused/applicant. The accused/applicant was arrested on the basis of confessional statement of co-accused recorded in custody. According to the status report, on 16.01.2025 an unconscious injured man was found in an empty field in village Saboli,



Delhi, and on being taken to the hospital, the injured was declared as brought dead. Identity of the deceased was ascertained after circulating the photographs of the dead body in the local area, followed by publishing the same in newspapers and other modes, but no information about the identity of the deceased could be ascertained. Postmortem conducted on the deceased reflected cause of death as multiple antemortem injuries caused by blunt force with some dragging injuries. On 23.01.2025, an informant informed that one Gulshan had been beaten up on 15.01.2025 at about 05:00pm at Parking, Gali No.4, Prem Nagar, Loni, U.P. by some persons. CCTV footage of the area revealed that Gulshan was being beaten up and being taken away from parking area by some persons on motorbike, one of whom was identified by SI Nitin to be Vikas. On interrogation, Vikas disclosed names of his accomplices including the accused/applicant. On 28.02.2025, the accused/applicant was arrested and interrogated.

4. Learned APP opposes the bail application on the ground that two eye witnesses also gave their statements to the IO, confirming the involvement of the accused/applicant. It is also contended by learned prosecutor that CCTV footage clearly depicts the role played by the accused/applicant. Further, it is submitted that the eye witnesses namely Prashant Gupta and Dev Gupta also gave statements under Section 183 BNSS about the incident.

5. So far as the statements under Section 183 BNSS are concerned, the same do not even whisper as to why those witnesses did not report the matter immediately to the police. Further, even those statements only



loosely mention name of the accused/applicant as one of the accomplices. However, on this aspect, a cautious rider is added that at this stage, detailed analysis of those statements is not possible, but this is one of the important factors in the mind of this court while dealing with the issue of liberty of an individual in the light of further discussion.

6. As regards the CCTV footage, the same has been played in court room. It is not possible to clearly identify the accused/applicant from the same. It is submitted by the IO that the accused/applicant is the person depicted in yellow jersey. But that person is simply a member of the crowd following 2-3 persons, pulling away one injured.

7. Now comes the most important aspect of this case. The column of reasons of arrest in the arrest memo of the accused/applicant (*annexed as Annexure P-8*) is blank. It is submitted by the IO that the grounds of arrest were provided separately in writing to the accused/applicant. But nothing prevented the IO from mentioning in the concerned column of the arrest memo that grounds of arrest have been separately furnished. The IO submits that supply of grounds of arrest was recorded in the Case Diary and the same was also initialled by the learned Magistrate. Going by this statement of the IO, I have examined the Case Diary. The Case Diary No.39 dated 28.02.2025 does mention that grounds of arrest were separately furnished to the accused/applicant. But on a careful scrutiny, it is noticed that only this Case Diary bears an initial, stated to be the initials of the learned Magistrate but there is no name/stamp and Case Diary of no other date bears initials of



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the learned magistrate. More importantly, it is noticed that Case Diaries are till Diary No.19 dated 27.02.2025 and thereafter the next Case Diary is numbered 39 dated 28.02.2025 and thereafter, the Case Diaries numbers are 42, and then 44 onwards. On being asked about the missing Case Diaries, the IO states that those Case Diaries “might have got destroyed or removed”. This completely takes away sanctity of not just these Case Diaries but also raises suspicion against genuineness of the investigation. It is extremely unfortunate that even in a murder case such shoddy investigation has been carried out.

8. Considering the overall circumstances mentioned above, I find no reason to deny liberty to the accused/applicant. The application is allowed. Subject to the accused/applicant furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned trial court, the accused/applicant be released on bail.

9. Copy of this order be sent to the concerned Jail Superintendent for being conveyed to the accused/applicant.

10. Nothing observed in this order shall have a bearing on the final outcome of the trial.

**GIRISH KATHPALIA
(JUDGE)**

JULY 21, 2025/ry