



2026:DHC:545



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

% *Date of Decision: 22.01.2026*

+ **BAIL APPLN. 4050/2025 & CRL.M.A. 31489/2025**

MOHD. MUSTAKPetitioner

Through: Mr. Pavitraveer Singh, Mr. Akash,
Advocates.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Hemant Mehla, APP for State
with Inspector Mahesh Kumar, PS
Kartavya Path.

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 48/2023 of PS Kartvya Path for offence under Section 304 IPC.

2. Broadly speaking, the case against the accused/applicant, as culled out of the FIR is that on 26.09.2023, in the course of exchange of hot words between the accused/applicant and maternal uncle (*Akhtar Hussain*) of the first informant, the accused/applicant inflicted a rod blow on the head of Akhtar Hussain, due to which he fell down and the accused/applicant fled away. The entire incident was allegedly witnessed by the first informant



Aman. The injured was taken to hospital, but unfortunately after few days he died.

3. Learned counsel for accused/applicant submits that the accused/applicant is innocent and has been falsely implicated. According to learned counsel for accused/applicant the manner in which the alleged injury was suffered by Akhtar Hussain is not believable and apparently something else happened, otherwise there was no reason for the contractor to take Akhtar Hussain to a Ghaziabad Hospital instead of some nearby hospital. In this regard, learned counsel for accused/applicant has also referred to the MLC prepared at the Ghaziabad Hospital. Further, it is submitted that since testimony of Aman already stands recorded before the trial court, no reason would be served by keeping the accused/applicant in jail.

4. Learned APP assisted by IO/Inspector Mahesh Kumar opposes the bail application, pointing out that originally the FIR was registered for offence under Section 308 IPC but subsequently the provision under Section 302 IPC was added after Akhtar Hussain succumbed to his injuries about one and a half months after the incident.

5. I find substance in submission of learned counsel for accused/applicant in view of the alleged history recorded in the MLC prepared at Ghaziabad Hospital. According to the same, there was a scuffle between two groups during which one person hit iron rod on head of the



deceased. That is not the case set up in the FIR. Further, I also find no reason as to why the contractor would assure Aman that all medical expenses would be paid by the contractor only, as deposed by Aman in his testimony as PW1.

6. Further, admittedly the accused/applicant was not arrested from the spot. The accused/applicant was arrested after about seven months of the incident. That being so, it is not understandable as to how after seven months, the accused/applicant was able to get recovered the iron rod allegedly used in the assault. Not only this, there is nothing to connect the allegedly recovered iron rod with the injury caused to Akhtar Hussain and/or with assault committed by the accused/applicant since neither any blood was detected on the allegedly recovered rod nor any effort was done to lift fingerprints from the same.

7. All public witnesses already stand examined. The accused/applicant is in jail since 19.04.2024.

8. I find no reason to deprive the accused/applicant liberty. Of course, the above analysis of material on record will have to be tested by the learned trial court at the stage of final arguments. But for the present purposes, the accused/applicant cannot be denied bail.

9. The application is allowed and the accused/applicant is directed to be



2026:DHC:545



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.

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

11. Accompanying application also stands disposed of.

GIRISH KATHPALIA
(JUDGE)

JANUARY 22, 2026/dr