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

*Reserved on: 31.07.2025*  
*Date of Decision: 14.08.2025*

+ **BAIL APPLN. 4183/2024**

**RAKESH YADAV**

.....Petitioner

Through: Mr. Adarsh Priyadarshi,  
Mr. Apoorav Shankarand and Ms. Sandhya,  
Advs.

versus

**STATE OF NCT OF DELHI**

.....Respondent

Through: Mr. Raghuinder Verma, APP  
for State and Mr. Aditya Vikram Singh,  
Adv.

**CORAM:**

**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**J U D G M E N T**

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1. The petitioner/applicant in this Bail Application under Section 439 of the Code of Criminal Procedure, 1973<sup>1</sup> / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>2</sup>, is seeking regular bail in connection with FIR 79/2016 registered at PS Badarpur, New Delhi, under Sections 302/296/120B/412/34 of the Indian Penal Code, 1860<sup>3</sup>, and Sections 25/27 of the Arms Act, 1959<sup>4</sup>.

2. Brief facts of the incident as recorded in the chargesheet, is that

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<sup>1</sup> "CrPC" hereinafter

<sup>2</sup> "BNSS" hereinafter

<sup>3</sup> "IPC" hereinafter

<sup>4</sup> "Arms Act" hereinafter



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on 28.02.2016, information was received about a shooting, upon which police officers reached the location of the incident, i.e., Goyal Farm, Badarpur. On inquiry, it was found that the Delhi Entry Toll Point staff were residing at this address, where night cash and holiday cash were usually stored and protected by two armed guards. A cook, a sweeper, and other staff were also found to be employed here. Two people were found to have been shot in the third room, with the property having four rooms in total.

3. Information had been received from Apollo Hospital that two men aged 45 and 60 were brought dead by a worker from the place of the incident. Their cause of death had been ascertained, per their postmortem reports, as haemorrhagic shock due to gunshot wounds sufficient to cause death in the ordinary course of nature, possibly inflicted at around 7.00 am on the date of the incident. One of the deceased was the head cashier at the site of the incident, while the other was a guard.

4. Eyewitness Mr. Rakesh Gautam, landlord of the premises rented out to the accused persons, along with his wife, was asked for a statement to be recorded under Section 161 CrPC. They disclosed that two boys namely Deepak and Vishal used to stay at their premises as tenants who were supposedly preparing for a competitive exam. It was further stated that these tenants had friends who visited them at the tenanted premises in the days preceding the incident. They further reported that, on the morning of the incident, they heard gunshots and saw that Vishal, Deepak, and two other friends were exiting the house in front of the toll tax office. Deepak and his friend, the latter of whom



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was described as having a fair complexion, were seen carrying a pistol. Their other friend, described as having a dark complexion, was seen carrying a bag.

5. The accused were seen leaving the scene of the crime on a Pulsar motorcycle which was stated to have been in the possession of Deepak and Vishal. Another eyewitness reported that the bag which the accused individuals fled the crime scene with likely contained the weekend's toll collection, roughly a sum of ₹62,00,000/-.

6. There were numerous phone numbers, allegedly belonging to Vishal, Deepak, and their two friends, that were shared with the police. Two of these phone numbers were found to belong to the petitioner in the present case. The two phone numbers associated with the petitioner were found switched off from 12.02.2016. Most of the locations of phone numbers of the accused were found near the location of the incident.

7. The specific role assigned to the petitioner, i.e., shooting the cashier upon his refusal to hand over cash - has been disclosed by a co-accused, one Mr. Shahrukh, as recorded in the chargesheet. The chargesheet further discloses that there are other cases of robbery and murder registered against the petitioner in Haryana, Rajasthan, and Uttar Pradesh.

8. The status report on record mentions the petitioner's involvement in six other criminal cases, of which he has been convicted in four. The two other cases that have been mentioned are P.S Civil Line CIA Karnal, Haryana FIR 307/2016 registered under Sections 186/307/332/353 IPC and Sections 25/54/59 Arms Act, and



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FIR 48/2015 under Sections 302/307/396/397 IPC.

**9.** The petitioner herein had sought leave to appeal before the Hon'ble Supreme Court in SLP Cri 7866/2025 against order dated 07.04.2025 passed by a previous bench of this Court in the present bail application. The order in question granted an adjournment on the request of learned APP, seeking time to file a reply and apprise the Court of the progress of the ongoing trial. It has been submitted before this Court that the reason to challenge this order was due to repeated grant of time for the State to file a status report/ response, thereby delaying the adjudication of the present bail application. A Division Bench of the Hon'ble Supreme Court *vide* order dated 22.05.2025 refused to grant leave to appeal against this Court's order dated 07.04.2025.

**10.** The petitioner had been arrested in connection with the present crime on 04.05.2016 and is in custody since then. Furthermore, the petitioner had earlier moved this Court through Bail Application 513/2023, in connection with the present FIR. This Court, *vide* order dated 11.10.2023, refused grant of bail.

**11.** The petitioner herein had, prior to Bail Application 513/2023 *supra*, moved Bail Matter 3765/2022 before the learned ASJ (FTC) 02, Saket, which came to be rejected *vide* order dated 16.12.2022.

**12.** Mr. Adarsh Priyadarshi, learned Counsel for the petitioner, has addressed arguments to persuade the Court in favour of enlarging the petitioner on regular bail. Mr. Raghuinder Verma, learned APP, has staunchly opposed the grant of bail.

**13.** Mr. Priyadarshini began by addressing arguments on the stage



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of trial, submitting that all private witnesses to the crime have been examined, and that only police officers remain to be examined. He also raises the argument that two of the eyewitnesses to the crime have turned hostile.

**14.** Next, he raises the ground of parity. Relying on bail granted to co-accused Aryan Bajpai and Vimal Kumar Pandey.

**15.** Lastly, he advances the argument of the trial being protracted in nature, stating that it has been around 10 years that the petitioner has spent in custody without completion of the trial

**16.** He also relies on the following judgments:

a. *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v State of Uttar Pradesh*<sup>5</sup>

b. *Maulana Mohd. Amir Rashadi v State of Uttar Pradesh & Anr.*<sup>6</sup>

c. *Union of India v K.A. Najeeb*<sup>7</sup>

d. *Mohd. Muslim Alias Hussain v State (NCT of Delhi)*<sup>8</sup>

e. *Deepak Tiwari v The State NCT of Delhi*<sup>9</sup>

f. *Navendu Babbar v State of NCT of Delhi*<sup>10</sup>

**17.** Mr. Verma, in opposition, submits that the conduct of the petitioner was such that he was absconding after the incident of crime, and that he was only arrested in Karnal, where he had engaged in firing against policemen who attempted to apprehend him.

**18.** This Court's attention has been drawn to the fact that the

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<sup>5</sup> 2024 SCC OnLine SC 1819

<sup>6</sup> (2012) 2 SCC 382

<sup>7</sup> (2021) 1 SCR 443

<sup>8</sup> 2023 SCC OnLine SC 352

<sup>9</sup> 2024 SCC OnLine Del 7810

<sup>10</sup> 2020 SCC OnLine Del 2345



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petitioner, along with other accused, had no CDR records from days immediately preceding the crime, and that they facilitated tenancy of the rented premises in question by utilising fictitious identities. Mr. Verma further submits that the petitioner is directly involved in the crime, given that he allegedly shot the cashier.

**19.** Heard learned counsel appearing for both sides at length.

**20.** At the very outset, this Court deems it inappropriate to venture into the claims of witnesses having turned hostile. As held by the Hon'ble Supreme Court in *Satish Jaggi v State of Chhattisgarh*<sup>11</sup>, this is a matter that ought to be decided at the stage of trial, and any attempt to discern its veracity and implications during the adjudication of a bail application will most likely prejudice the trial.

**21.** On a query by the Court, learned counsel for the petitioner candidly admits to being unaware as to the exact stage of trial, as well as to the number of witnesses yet to be examined. While considering his argument pressing for grant of bail due to a protracted trial, we note that this submission is being made bereft of the knowledge of exactly how many witnesses remain to be examined.

**22.** The cases that have been relied upon by Mr. Priyadarshini (*supra*), specifically the paragraph numbers mentioned, seem to be an attempt to buttress his submission on the protracted nature of trial. This argument appears attractive, at first blush, but pales in light of other, more pressing adverse factors operating against the petitioner.

**23.** While considering the argument on parity, it is pertinent to note that this Court *vide* order dated 11.10.2023 disposing Bail Application

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<sup>11</sup> (2007) 11 SCC 195



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513/2023 has already returned a finding on the argument of parity of the petitioner with co-accused Vimal Kumar Pandey, rejecting the same, owing to different roles alleged to have been played by each of them.

**24.** In consideration of parity with co-accused Aryan Bajpai, a perusal of his bail order is pertinent. It is ascertained that his bail had been granted due to a lengthy custodial period, examination of less than half of the totality of prosecution witnesses, and only one witness having identified Aryan Bajpai (that too after a delay of 8 years). It is also important to highlight the role alleged to have been played by him – bolting the room where certain staff members of the toll plaza were resting so that they were prevented from interfering in the offence.

**25.** While determining whether an accused ought to be enlarged on bail, it is imperative for a Court to ascertain criminal antecedents, especially where heinous offences are involved.

**26.** It is on this note that, simultaneously meeting the petitioner's highest case with regard to parity, that the Hon'ble Supreme Court's decision in *Neeru Yadav v State of U.P & Anr.*<sup>12</sup> comes to mind. Here, grant of bail to an accused with heinous criminal antecedents was being considered, para 15 of which merits reproduction:

“15. This being the position of law, it is clear as cloudless sky that the High Court has totally ignored the criminal antecedents of the accused. What has weighed with the High Court is the doctrine of parity. A history-sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind. The law

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<sup>12</sup> (2016) 15 SCC 422



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expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.”

**27.** In weighting an accused’s extended custodial period against his criminal antecedents, the following paragraph from *Manoj Kumar Khokhar v State of Rajasthan*<sup>13</sup>, warrants reproduction:

“25. Another factor which should guide the court's decision in deciding a bail application is the period of custody. However, as noted in *Ash Mohammad v. Shiv Raj Singh* [*Ash Mohammad v. Shiv Raj Singh*, (2012) 9 SCC 446 : (2012) 3 SCC (Cri) 1172], the period of custody has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents of the accused, if any. Further, the circumstances which may justify the grant of bail are to be considered in the larger context of the societal concern involved in releasing an accused, in juxtaposition to individual liberty of the accused seeking bail.”

**28.** In the present matter, it is known that the petitioner’s antecedents include numerous criminal cases involving Sections 302/307/396 of the IPC. These offences qualify as heinous, to say the very least.

**29.** On these grounds, this Court does not deem it fit and proper to enlarge the petitioner on bail. Accordingly, the present bail application is dismissed.

**30.** It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

**31.** The judgment be uploaded on the website forthwith.

**AJAY DIGPAUL, J**

**AUGUST 14, 2025/ar/av**

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<sup>13</sup> (2022) 3 SCC 501