



2026:DHC:2859



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

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***Reserved on: 17.03.2026***  
***Pronounced on: 06.04.2026***  
***Uploaded on: 06.04.2026***

+ BAIL APPLN. 492/2026  
ZAHID

.....Applicant

Through: Mr. Azhar Qayum, Mr. Shahamuddin, Ms. Priyanka Singh, Mr. Zubair, Mr. Devansh Sehgal, Ms. Priyanka Saxena, Mr. Amal Javed and Mr. Anmol Malhotra, Advocates

versus

GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for the State  
Mr. Vijai Kumar Goswami and Mr. Mohit, Advocates for son of the deceased (VC)

**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure, 1973), the applicant seeks regular bail in connection with FIR No. 274/2023, dated 08.06.2023, registered under Sections 302/307/394/397/34 of the Indian Penal Code, 1860, ["IPC"] at Police Station Jafrabad, District North East, Delhi.

2. I have heard Mr. Azhar Qayum, learned counsel for the applicant, Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor, and Mr. Vijay Kumar Goswami, learned counsel for the family of the deceased. Mr. Chauhan has also placed a status report on record.



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3. The case of the prosecution may be summarised as follows:
  - a. On 08.06.2023, four persons unlawfully entered the house of the complainant, Mohd. Abbas Malik, at Gali No. 5, Ambedkar Basti, Maujpur, Delhi, and committed robbery of cash and jewellery. During the incident, the complainant and his wife Shamim were brutally assaulted with a knife, and Shamim was murdered at the spot.
  - b. FIR No. 274/2023 was registered under Sections 302/307/394/397/34 of the IPC at Police Station Jafrabad, Delhi, on 08.06.2023 and investigation was taken up.
  - c. On 09.06.2023, post-mortem examination of deceased Shamim was conducted at GTB Hospital *vide* PM No. 934/2023, as per which the cause of death was opined as:  
*“Asphyxia as a result of combined effect of antemortem throttling and ligature strangulation.”*
  - d. The present applicant Zahid is a close relative of the complainant and was present in the house at the relevant time. Although, he was also named in the initial complaint as an injured victim, it was subsequently alleged that he acted as an insider and facilitated the entry of the co-accused persons into the premises by providing access and prior information.
  - e. Upon sustained interrogation, the applicant disclosed that he had entered into a criminal conspiracy with his associates to commit robbery at the said premises. He admitted to having provided them with information about the house and facilitating their entry, and further revealed that he had pretended to be unconscious to evade



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suspicion.

- f. It is alleged that, in furtherance of the said conspiracy, when Shamim attempted to resist and raise alarm during the robbery, she was killed by the co-accused persons, who thereafter fled with the stolen articles.
- g. CCTV footage collected during investigation shows the entry and exit of the accused persons at the relevant time, corroborating the prosecution version regarding the execution of the offence.
- h. The applicant admitted his role in the offence during interrogation, and his disclosure statement has been recorded. On his instance, co-accused persons, including Nazim Saifi and Mohd. Shoaib, were apprehended.
- i. Further investigation led to the arrest of other co-accused persons, including Ajmal, who also admitted his involvement, as well as Nadeem, from whom stolen property was recovered, and Sabir @ Pola and Ankit Rathore @ Ram, from whose possession case property was also recovered.
- j. Call Detail Record [“CDR”] analysis reveals that the applicant Zahid was in contact with the co-accused persons prior to and at the time of the incident, and his location was found to be in the vicinity of the place of occurrence.
- k. The clothes worn by the applicant at the time of the incident were recovered and were found to be consistent with those seen in the CCTV footage.
- l. The prosecution asserts that the applicant, alongwith co-accused Mohd. Shoaib and Shahid, was one of the masterminds of the



offence, and that the crime was committed pursuant to a premeditated conspiracy involving robbery and murder.

m. Investigation has been completed, chargesheet has been filed under Sections 302/307/394/396/397/120B/34 of the IPC, and the matter is presently pending trial before the learned Trial Court.

4. Mr. Qayum's submissions were as follows:

a. The applicant was a nephew of the deceased and lived on the first floor of the same premises. The FIR registered on 08.06.2023, at the instance of the husband of the deceased, showed the applicant as an injured victim. It is only on the next day that a supplementary statement was recorded in which the applicant was sought to be implicated.

b. The applicant himself suffered several injuries, and his Medico-Legal Case ["MLC"] was also conducted at Jag Pravesh Chandra Hospital, Delhi. The MLC records that the applicant was unable to speak. The MLC in which the applicant's injuries have been enumerated, was suppressed by the prosecution and does not find a place in the chargesheet.

c. The person and the deceased were both taken by a neighbour, Tofeeq, who has not yet been cited as a witness in the chargesheet.

d. There is no *prima facie* material on record to link the present applicant with the offence in question. There is no eyewitness or public witness who has implicated him. He is not seen in the CCTV footage of the proximate area relied upon by the prosecution, and there has been no recovery from him.



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- e. The applicant has been in custody for a period of two years and nine months and has clean antecedents.
- f. Two of the co-accused, Mohd. Shoaib, S/o Mohd. Yaseen, and Nadeem, S/o Iqbal, have already been granted bail by the Additional Sessions Judge, Shahdara, Karkardooma Courts, by orders dated 11.02.2025 and 28.07.2025, respectively. The role attributed to the applicant is no graver than the role attributed to the said co-accused. It is also pointed out that co-accused Nadeem is involved in another criminal case [FIR No. 186/2016, registered under Sections 302/398/34 of the IPC at P.S. Khoda, Uttar Pradesh].
5. Mr. Chauhan and Mr. Goswami, on the other hand, submit as follows:
- a. The applicant is accused of a serious offence under Section 302 of the IPC.
- b. He is clearly implicated in the supplementary statement recorded by the deceased's husband, which also shows a clear motive for the applicant to have committed the offence in question.
- c. The CDR of the applicant and other co-accused Nazim, Ajmal, Shahid, and Mohd. Shoaib show telephone connectivity between the parties.
- d. The case of parity with Nadeem s/o Iqbal, who has been enlarged on bail, is not made out, as Zahid's role was far graver than that of Nadeem s/o Iqbal. The material on record *prima facie* indicates that the present applicant acted as an insider and was one of the principal conspirators, having conceived the plan, provided



critical information regarding the premises and valuables, facilitated the entry of the assailants by keeping the gate open, and feigned unconsciousness to conceal his involvement. In contrast, Nadeem s/o Iqbal, who is the brother-in-law of co-accused Nazim (an acquaintance of the present applicant and his brother), is alleged to have joined the conspiracy at a later stage and primarily assisted in arranging the assailants. It is further pointed out that Nadeem was not present at the site of occurrence, he was not identified by the complainant, and no charge under Section 302 of the IPC has been made out against him.

e. No case for parity is also made out between the present applicant Zahid and co-accused Mohd. Shoaib, as Mohd. Shoaib is neither seen in CCTV footage nor present at the spot, no recovery of the alleged stolen articles has been effected from him, and he is not shown to be a direct beneficiary or executor of the offence. Thus, while Mohd. Shoaib's role is peripheral, Zahid's involvement is corroborated by disclosure statements, the complainant's version, and CDR analysis showing continuous mobile connectivity with co-accused.

f. Mr. Chauhan accepts that the applicant is not seen in the proximate CCTV footage.

6. Mr. Qayum, in rejoinder, sought to explain the telephone connectivity between the applicant and the other co-accused on the ground that one of the co-accused, Shahid, is in fact the applicant's brother, and that there also existed business dealings between the applicant and certain other co-accused, as reflected in the complaint itself.



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It is further submitted that there was a potential transaction of sale of some machinery between the applicant and Nazim. Reliance is placed upon the supplementary statement of the complainant, wherein it is stated that the applicant had informed him that Nazim would visit for the purpose of purchasing a plate-making machine. It is, however, the complainant's own case that the said transaction did not fructify, but Nazim was looking around his house extensively.

7. Having heard learned counsel for the parties, I am of the view that the applicant is entitled to be released on bail in the present case. The chargesheet has already been filed, and all material witnesses have been examined. Notably, the complainant's case, as originally narrated, treated the applicant as a victim of the crime, and his MLC also reflects that he sustained serious injuries. The applicant's MLC has not been included as part of the chargesheet. Even in the supplementary statement by which the complainant implicated the applicant, the allegations are *prima facie* based largely on suspicion - namely, the alleged entry of an outsider into the house, the fact that the complainant did not hear the applicant shout or scream, that he was able to get up when called, and his general conduct thereafter. While the prosecution now alleges that the incident was staged, insofar as the applicant is concerned, this remains a matter for trial. At this *prima facie* stage, the fact that the applicant was himself attacked and suffered serious injuries does not align with the prosecution's allegation of his central involvement in the offence. The *prima facie* material sought to link the applicant with the offence, such as CDRs and recovery of clothes, appears consistent with the admitted position that he was residing in the same house as the victim and had



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prior business dealings with co-accused Nazim. The applicant otherwise has clean antecedents and has been in custody for a period of two years and nine months.

8. For the aforesaid reasons, I am of the view that continued deprivation of the applicant's liberty pending trial is unjustified. It is, therefore, directed that the applicant be released on regular bail in connection with FIR No. 274/2023, dated 08.06.2023, registered under Sections 302/307/394/397/34 of the IPC at Police Station Jafrabad, District North East, Delhi, subject to furnishing a bail bond in the sum of Rs. 50,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Duty Magistrate, and subject to the following conditions:

- a. The applicant shall appear before the Sessions Court on each and every date of hearing;
- b. The applicant shall furnish his permanent address to the concerned Investigating Officer ["IO"/]Station House Officer ["SHO"/], as well as the address at which he is residing during the pendency of the case, and shall, in the event of any change in his residential address, promptly intimate the IO/SHO and file an affidavit before the Sessions Court;
- c. The applicant shall provide his mobile number to the concerned IO/SHO, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
- d. The applicant shall not, directly or indirectly, contact, visit, or offer any inducement, threat, or promise to any prosecution witnesses or other persons acquainted with the facts of the case;



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- e. The applicant shall not, directly or indirectly, tamper with evidence or engage in any act or omission that could prejudice the proceedings of the pending trial;
  - f. The applicant shall not leave the country without prior permission of the Sessions Court;
  - g. The applicant shall not commit any offence during the period of his release.
9. The bail application is disposed of in terms of the above.
10. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.
11. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

**PRATEEK JALAN, J**

**APRIL 06, 2026**

*Pv/Jishnu/*