



2025:DHC:1425



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

% *Judgment delivered on: 04.03.2025*

+ **BAIL APPLN. 116/2025**

SURAJ @ DEVENDER .....Petitioner

Through: Mr. Nitin Sejwal, Mr. Nushant  
Sejwal, Mr. Devender Singh,  
Mr. Kartikey and Mr. Surjeet  
Singh, Advocates

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP for the  
State along with Inspector  
B.D. Meena, P.S. Badarpur,  
Inspector Vijay Pal Dahiya,  
Crime Branch and Inspector  
Somil Sharma, Special Cell,  
SWR

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J.**

1. By way of this application, preferred under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS'), the applicant seeks grant of regular bail in case arising out of FIR bearing no. 70/2021, registered at Police Station Badarpur, Delhi, for offences punishable under Sections 302/392/394/397/34 of the Indian Penal Code, 1860 (hereafter 'IPC') and Sections 27/54/59 of the



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Arms Act, 1959.

2. Briefly stated, the facts of the present case are that on 29.01.2021, an information regarding MLC No. 58/2021 of Mr. Rajesh Mehto had been received at Police Station Badarpur, New Delhi from Apollo Hospital, concerning stab injuries on the body of the injured. Upon receiving the information, the police staff had reached Apollo Hospital, where the doctors had informed them that the patient was unfit to give a statement and, due to his serious condition, he was being referred to Safdarjung Hospital for further treatment. In view of these circumstances, an FIR had initially been registered for offence under Sections 307/34 of IPC. However, on 30.01.2021, while undergoing treatment at Safdarjung Hospital, the victim Rajesh Mehto had succumbed to his injuries, and upon further investigation, his family members had informed the police that his mobile phone was also missing. As a result, the provisions of Sections 397/302/34 of IPC had been invoked in the case. During further investigation, it had come to light that the robbed mobile phone of the deceased had been traced to Mangolpuri area in Delhi, and was recovered from the possession of one Ravi. Upon interrogation, Ravi had revealed that he had purchased the mobile phone from one Nitin. Subsequently, Nitin had been traced at Ravi's instance and interrogated, where he revealed that he had purchased the said mobile phone from one Ritik. Further investigation had led to the discovery that Ritik had obtained the phone from one Pradeep @ Bittoo, a resident of Badarpur. The accused Pradeep @ Bittoo had



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been arrested from his residence, and at his instance, his two associates, namely Suraj S/o Ratan Singh and the present applicant, Suraj @ Devender, had also been apprehended. Upon sustained interrogation, the accused persons had disclosed their respective roles in the commission of offence. They had revealed that they were habitual drinkers and drug users, and on 29.01.2021, at around 10 pm, after consuming alcohol, they wanted to smoke *ganja* but they had no money. To fund their plan, they had decided to commit robbery. While standing on the footpath on the Mathura Road towards Faridabad, opposite Tata Motors Showroom, they had spotted the victim walking from Badarpur Village towards Gautampuri. When the victim had reached near them, accused Pradeep @ Bittoo had pulled him into the bushes, while the present applicant, Suraj @ Devender, had restrained him, and accused Suraj S/o Ratan Singh had robbed his mobile phone and wallet. At that moment, accused Suraj S/o Ratan Singh had recognized the victim as a resident of their locality and, fearing that he might report them to the police, they had decided to eliminate him. The accused persons had then stabbed the victim multiple times with a knife, which they had been carrying. After leaving the victim in a pool of blood, the accused persons had fled the scene, disposing of the blood-stained knife under a flyover. During the course of the investigation, the police had recovered the murder weapon, the clothes worn by the accused at the time of the incident, as well as the robbed mobile phone and wallet, at their instance.



3. The learned counsel for the applicant argues that the applicant has been falsely implicated in the present case and he has no connection with the alleged offence. It is argued that the applicant has already spent 04 years in judicial custody, and since the police has completed the investigation and filed the charge sheet, his continued incarceration is not required. It is further argued that the forensic evidence (FSL report) does not support the prosecution's case, as no blood was detected on the clothes of the present applicant, which contradicts the allegations against him. The entire case is based on circumstantial evidence, and there is no eyewitness who had seen the applicant herein with the deceased immediately before the incident, and therefore, there is a clear absence of direct evidence or any recovery linking the applicant to the alleged offence. In such circumstances, keeping the applicant in custody during trial amounts to punitive incarceration, which is against the principles of criminal jurisprudence and the right to liberty. Furthermore, it is argued that the CCTV footage relied upon by the prosecution lacks authenticity, as it is not supported by a certificate under Section 65B of the Indian Evidence Act. Additionally, no notice under Section 91 of Cr.P.C. was issued to Kia Motors to obtain the footage, and no statement under Section 161 of Cr.P.C. was recorded from the person providing it, rendering the footage inadmissible and unreliable. It is also pointed out that even if the said CCTV footage is considered, the same is of the vicinity of the place of incident and it discloses nothing against the present applicant. Thus, on these grounds, it is prayed that



the applicant be granted regular bail.

4. The learned APP for the State argues that the nature and gravity of the offence are extremely serious, involving the cold-blooded murder of the victim. It is further argued that the prosecution has gathered strong circumstantial evidence linking the applicant to the crime and the mere absence of direct eyewitnesses does not weaken the prosecution's case, as circumstantial evidence, if credible, is sufficient to convict an accused. Further, it is stated that the argument that no blood was found on the applicant's clothes does not absolve him, as forensic findings are only one piece of evidence and do not negate his involvement in the larger conspiracy. Regarding the CCTV footage, it is argued that the certificate under Section 65B of the Indian Evidence Act has now been filed by the I.O. before the learned Trial Court. It is argued that the CCTV footage supports the case of prosecution. Therefore, on these grounds, it is prayed that the present bail application be dismissed.

5. This Court has **heard** arguments addressed by the learned counsel appearing for either side and has also perused the material available on record.

6. The allegations against the applicant, Suraj @ Devender, are that on 29.01.2021, he, along with his co-accused, had planned to commit robbery to obtain money for drugs. Co-accused Pradeep had pulled the victim into the bushes, and while the applicant had restrained him, and prevented him from escaping, the co-accused



Suraj S/o Ratan Singh had robbed him. The accused persons had then allegedly stabbed the victim multiple times, before fleeing the spot.

7. However, a careful perusal of the material collected by the investigation agency reveals that the only pieces of evidence against the present applicant/accused are his disclosure statement and a CCTV footage. Notably, it is the State's own case, and conceded by the I.O. who was present before the Court during the course of arguments, that the CCTV footage merely shows the applicant walking on a street, alongwith other accused persons, in the vicinity of the spot. The CCTV footage does not reflect the offence in question being committed by the accused. It is also conceded that no recovery has been made either from the applicant herein or at his instance. Clearly, the disclosure statement of the accused alone, without any substantive corroborative evidence, is *prima facie* insufficient to establish his guilt.

8. Therefore, considering the overall facts and circumstances of the case, including the period of custody undergone by the applicant, the fact that no recovery was effected from him, and the CCTV footage, which does not reflect the commission of offence by the applicant, this Court is inclined to grant regular bail to the applicant on his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions:



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- i) The applicant shall not leave the country without prior permission of the concerned Trial Court.
  - ii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.
  - iii) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court as well as IO/SHO.
  - iv) The applicant shall regularly appear before the learned Trial Court.
9. The bail application stands disposed of in above terms.
10. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case or influence the learned Trial Court during the course of trial.
11. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**MARCH 4, 2025/A**