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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 11.11.2025*+ **BAIL APPLN. 3644/2025****SURESH**

.....Petitioner

Through: Mr. Abhinav Sekhri, Mr.
Faisal Mahmood (DHCLSC),
Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the
State.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J (Oral)**

1. By way of this application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 13/2020, registered at Police Station Shalimar Bagh, Delhi, for the commission of offence punishable under Sections 302/365/120B/34 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. The brief facts of the case are that on 04.01.2020, the complainant, Sh. Manoj Kumar, had lodged a missing report regarding his brother, Satyanarayan, at P.S. Shalimar Bagh vide DD



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No. 54A. Subsequently, on 12.01.2020, the complainant had again visited the police station and expressed suspicion that his brother had been kidnapped. Based on his statement, the present FIR had been registered for offence under Section 365 of IPC, and the investigation was taken up. During the course of investigation, the complainant alleged that Satyanarayan's wife, Mahima, was having an illicit relationship with one Khushi Ram @ Ajay, and that both were responsible for the disappearance of Satyanarayan. Efforts were made to trace Khushi Ram, but he was found absconding from his residence. However, his brother, Ramsalone @ Guddu, disclosed that Khushi Ram, along with his friends Sonu and Suresh (the present applicant), was working at a tent house in Pitampura. He also confirmed that Khushi Ram and Mahima were in a relationship with each other.

3. During investigation, the owner of the tent house, Sh. Sanjay, confirmed that Sonu and Suresh had worked with him and that Sonu had left for his native place, Satna (Madhya Pradesh), shortly after the incident. The Call Detail Records (CDRs) of the victim, Khushi Ram, Sonu, and Suresh revealed that their locations were in proximity on 03.01.2020, around the time of the disappearance of the victim. One Kamlesh, a relative of the victim, also stated that he had seen Satyanarayan along with Khushi Ram, Sonu, and Suresh near a liquor shop at Haiderpur on the evening of 03.01.2020. On the basis of this information, a police team was constituted and sent to Satna,



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Madhya Pradesh. Co-accused Sonu was apprehended on 21.01.2020 and, during interrogation, he disclosed having murdered Satyanarayan along with Khushi Ram and the present applicant Suresh. Acting on his disclosure, the police arrested co-accused Khushi Ram and the applicant Suresh from Madhya Pradesh on the same day.

4. Investigation revealed that co-accused Mahima and Khushi Ram had conspired to eliminate Satyanarayan due to their relationship. Pursuant to their plan, on 03.01.2020, Khushi Ram, along with co-accused Sonu and Suresh, had lured Satyanarayan to consume liquor with them. Thereafter, the accused persons had allegedly strangled him with a *gamcha* and dumped his body in the area of P.S. Sahabad Dairy, where it was later recovered and identified. Consequently, Sections 302/120B/34 of IPC were added to the FIR. The applicant was thereafter arrested and produced before the concerned Court, and his police custody remand was obtained for investigation.

5. The learned counsel appearing for the applicant/accused argues that the applicant has been in judicial custody since 21.01.2020, i.e., for over five years and six months, while the trial remains pending. It is argued that only 8 out of 27 prosecution witnesses have been examined so far, and the trial is unlikely to conclude soon. Reliance is placed on ***Union of India v. K.A. Najeeb*: (2021) 3 SCC 713** and ***Satender Kumar Antil v. CBI*: (2022) 10 SCC 51**, to contend that



prolonged incarceration of an undertrial without timely conclusion of trial violates Article 21 of the Constitution of India. It is argued that the only basis for the applicant's implication is his presence near the spot of incident, as reflected in the Call Detail Records (CDRs), which is only corroborative evidence. It is stated that the applicant/accused does not possess the means nor influence to tamper with evidence or intimidate witnesses, and most public witnesses have already been examined. Given the prolonged custody, clean antecedents, and delay in conclusion of trial, the learned counsel prays that the applicant/accused be released on regular bail.

6. The learned APP for the State, on the other hand, argues that the present case pertains to the serious offence of murder. It is argued that the wife of the deceased was in a relationship with one of the co-accused persons, which became the motive for the commission of offence. It is further argued that the CDR analysis revealed that the location of the deceased corresponded with that of the applicant herein at the relevant time. The learned APP also argues that the applicant herein handed over the deceased's mobile phone to an auto driver on the pretext that he had forgotten his wallet, asking him to keep the phone as security and lend him ₹500/-. Furthermore, during the investigation, the Aadhaar card of the deceased was recovered from the possession of the applicant/accused. It is also pointed out that the car used in the commission of the offence was found to belong to one Mahavir, who had given it on contract to the



applicant/accused under an agreement. It is thus prayed that the present application be dismissed.

7. This Court has **heard** arguments addressed on behalf of applicant and the State, and has perused the material on record.

8. To appreciate the rival contentions, *firstly*, this Court has perused the testimony of PW-1 Kamlesh, an e-rickshaw driver, who has deposed that on 03.01.2020, at around 7:00 p.m., he had seen the deceased, who was his nephew, in the company of the present applicant and co-accused Sonu and Khushi Ram @ Ajay near a liquor shop at QU Block, Pitampura. PW-1 further deposed that they were all standing near a white Wagon-R car. This statement, therefore, *prima facie* reveals that the deceased was 'last seen' with the present applicant and co-accused persons.

9. This Court further takes note of the statement of one Dharam Singh, recorded during investigation by the I.O., wherein he stated that on the night intervening 03 and 04.01.2020, a Wagon-R taxi had stopped near him, in which three persons were seated. One of them had stepped down from the vehicle, introduced himself as Suresh, and requested a sum of ₹500, stating that he had forgotten his wallet at home and was in urgent need of cash. As surety, he had handed over a Sony Xperia mobile phone, claiming it belonged to his wife, and had assured that he would return the money the next day and collect the phone. He had also provided a visiting card of the Tent House at Pitampura and wrote down his Uber taxi number on it.



Pertinently, since the alleged offence was committed during the COVID-19 pandemic, a Test Identification Parade (TIP) could not be conducted; *however*, the photograph of the applicant/accused was shown to witness Dharam Singh, who identified him.

10. *As regards the other incriminating evidence against the applicant*, this Court notes that the original Aadhaar card of the deceased was recovered from the possession of the present applicant. Further, during the course of investigation, the statement of one Mahabir was recorded, who disclosed that he had given his white Wagon-R car, on contract, to the present applicant in November 2019, after getting it registered with Uber. This statement corroborates the fact that the applicant/accused was in possession and use of the said white Wagon-R car, at the time of the alleged incident. Moreover, a *gamcha* was recovered from the said white Wagon-R car, which was duly seized and sent for forensic examination, and it was opined that “the gamcha could have been used while causing manual strangulation.” As per post-mortem report of the deceased, it was opined that the “death was due to asphyxia consequent to manual strangulation”.

11. It is also material to note that from the CDR analysis in this case revealed that on 03.01.2020, the locations of the mobile phones of the present applicant, the co-accused persons, as well as the deceased were found to be in the areas of District Central, Shalimar Bagh, Aggarwal Auto Mall, and Outer Ring Road at around 5:30



p.m. Subsequently, at around 7:45 p.m., the location of their mobile phones was traced to Sector 15/16, Rohini, which corresponds to the residential area of the present applicant/accused and the co-accused persons, as well as the deceased's last known location.

12. The Hon'ble Supreme Court in ***Vijay Kumar v. Narendra & Ors.***: (2002) 9 SCC 364, discussed the factors to be taken into consideration while adjudicating a bail application in respect of offence under Section 302 of IPC.

The relevant extract of the decision is set out below:

"10. ...The principle is well settled that in considering the prayer for bail in a case involving serious offences like murder, punishable under Section 302 IPC, the court should consider the relevant factors like the nature of the accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after the have been convicted for committing the serious offence of murder..."

13. In ***Brijmani Devi v. Pappu Kumar: SLP (Crl.) Nos. 6335 and 7916 of 2021***, the Hon'ble Supreme Court held as under:

"25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the



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nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused."

14. Therefore, considering the overall facts and circumstances of the case, the gravity and seriousness of the alleged offence, the material collected against the present applicant, and the fact that prosecution witnesses are being examined before the Trial Court, this Court is not inclined to grant regular bail to the applicant at this stage.

15. Accordingly, the present application is dismissed.

16. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

17. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 11, 2025/A

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