



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

**Reserved on: 07<sup>th</sup> August, 2025**  
**Pronounced on: 19<sup>th</sup> August, 2025**

+ **BAIL APPLN. 2471/2025**

ASHU @ ATTA

.....Petitioner

Through: Mr. Vineet Jain, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the  
State.

Insp. Vikas Dabas, PS: Prasad Nagar.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (Corresponding to Section 439 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks regular bail in the proceedings arising from FIR No. 210/2018 dated 19<sup>th</sup> July, 2018, registered at P.S. Prasad Nagar, Delhi for the offences under Sections 302/34 of the Indian Penal Code, 1860.<sup>3</sup> Upon completion of investigation, the charge-sheet has been filed under Sections 302/34 of the IPC read with Sections 25/27/54/59 of the Arms Act, 1959.

2. Briefly stated, the case of the Prosecution is as follows:

2.1. On 19<sup>th</sup> July, 2018, a PCR call was received at Police Station Prasad

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<sup>1</sup> "BNSS"

<sup>2</sup> "CrPC"



Nagar, recorded as DD No. 4A. Acting on the information, SI Murari Lal along with Constable Ramnarayan (No. 1156/C) reached Gothi Park, Pyare Lal Road, Dev Nagar, Karol Bagh, Delhi. At the spot, a pool of blood was noticed near an iron bench inside the park. It emerged that the victim, later identified as Vishal, had been assaulted with a knife by the Applicant, Ashu @ Atta, and others, and had been shifted to Lady Hardinge Medical College Hospital by his friends. On arrival at the hospital, it was learnt that Vishal had succumbed to his injuries.

2.2. In the MLC, the doctor recorded the following observations: *“A/H/O Physical Assault with stab wound over left thigh and right forearm and 3x1cmx2cm laceration over left thigh, 3x1x1cm Laceration over right forearm and 0.5x0.5cm abrasion over right side of neck, patient unconscious, nature of injuries - reserved, kind of weapon used-reserved.”*

2.3. The statement of the Complainant, Pawan @ Hanni (brother of the deceased), was recorded. He stated that on the intervening night of 18<sup>th</sup>-19<sup>th</sup> July, 2018, after dinner, the deceased had gone for a walk at about 10:00 PM. Around 11:30 PM, the Complainant, who was at home, heard noises of a quarrel emanating from Gothi Park. Since the deceased had gone there, he rushed to the spot and saw Rahul Gupta @ Tyagi and another unknown person (described as short, well-built, and dark-complexioned) holding the deceased near an iron bench, while the Applicant repeatedly attacked him with a knife.

2.4. The co-accused Rahul Gupta @ Tyagi and the unidentified assailant allegedly exhorted the Applicant not to spare the deceased, upon which the Applicant stabbed him. As the deceased attempted to save himself, he

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<sup>3</sup> “IPC”



sustained injuries near the right elbow. At that time, friends of the deceased, Deepak Jha, Neeraj, Gaurav, and Sunny, were also present and tried to intervene, but the Applicant waved the knife at them. Subsequently, the Applicant stabbed the deceased in the left thigh. The Complainant and the deceased's friends threw bricks at the accused persons in an attempt to stop them.

2.5. Thereafter, all three accused persons fled the scene by crossing the railings of the park and ran towards Pyare Lal Road. The deceased collapsed on the ground. Sunny and Deepak Jha took him to the hospital in a three-wheeler. The Complainant, after informing his mother, also reached Lady Hardinge Hospital, where the deceased was undergoing treatment. He then made a call to the police control room from his mother's mobile phone. On the basis of this statement, the present FIR was registered.

2.6. Post-mortem examination was conducted at MAMC Mortuary *vide* PM No. 252/18 dated 19<sup>th</sup> July, 2018. The cause of death was opined as haemorrhagic shock and its complications, resulting from a stab injury on the left thigh, which was sufficient in the ordinary course of nature to cause death.

2.7. The Applicant was arrested on 19<sup>th</sup> July, 2018. His disclosure statement was recorded, and the weapon of offence and the clothes worn by him at the time of the incident were recovered at his instance. Co-accused Amar @ Kanha was arrested on 21<sup>st</sup> July, 2018, and Rahul Tyagi on 15<sup>th</sup> December, 2018.

2.8. During the course of investigation, all corroborative and linked evidence was collected. Relevant witnesses were examined, and a chargesheet against the aforementioned accused persons was filed before the



competent court.

2.9. The Applicant's bail application was previously dismissed by the Trial Court *vide* order dated 9<sup>th</sup> June, 2025.

3. Counsel for the Applicant urges the following grounds, seeking grant of bail:

3.1. The Applicant has been falsely implicated and has no involvement in the alleged offence. The FIR was registered based on the statement of the deceased's brother, whose very presence at the scene of occurrence is doubtful. The Complainant admittedly neither made any effort to intervene and protect his brother, nor accompanied him to the hospital, nor promptly informed the police. Such conduct is wholly inconsistent with the natural and expected response of a person who had actually witnessed the assault, thereby casting a serious shadow on the credibility of his account.

3.2. The Applicant was arrested on 19<sup>th</sup> July, 2018, and has been in judicial custody since then. He was granted interim bail on multiple occasions, he never misused the liberty extended to him. He complied with all the terms and conditions of the bail and surrendered before the court within the stipulated time on each occasion.

3.3. As per the latest nominal roll on record, the Applicant has been in custody for a period of nearly 5 years. The investigation stands completed, the supplementary chargesheet has been filed, and all material eyewitnesses have been examined. None of the eyewitnesses have supported the Prosecution's case. In such circumstances, the Applicant's continued incarceration amounts to punitive detention.

3.4. Co-accused Rahul Gupta @ Tyagi has been granted regular bail by this Court on 16<sup>th</sup> May, 2025, while co-accused Amar @ Kanha has been



released on bail by the Trial Court on 27<sup>th</sup> May, 2025. Therefore, the Applicant is also entitled to be released on bail on the principle of parity.

3.5. Nothing incriminating has been recovered either from the Applicant's possession or at his instance that connects him with the alleged offence. While the Prosecution has alleged some forensic evidence against the Applicant, the same is not free from doubt and appears to be planted. One of the Prosecution witnesses relating to the alleged recoveries was not on talking terms with the Applicant and seemingly bore a grudge against him.

4. On the other hand, Mr. Mukesh Kumar, APP for State, opposes the bail application on the following grounds:

4.1. The Applicant stands accused of a heinous offence punishable with capital punishment or life imprisonment. Considering the gravity of the offence, the Applicant's long period of incarceration, cannot by itself, serve as a ground for bail.

4.2. The Applicant was present at the scene at the time of the incident and inflicted the knife injury on the victim, which resulted in the victim's death.

4.3. The weapon used in the offence, *i.e.*, the knife, along with the clothes worn by the Applicant at the time of the incident, were recovered at his instance. As per the FSL report, both the knife and the clothes bear traces of the deceased's blood.

4.4. The Applicant is also involved in four other criminal cases and is a habitual offender. The release of the Applicant at this stage would undermine the integrity of the trial and could pose a risk by influencing witnesses or tampering with evidence.

5. The Court has carefully considered the submissions advanced by the counsel for the parties and perused the material on record. The Applicant



stands accused of a grave and heinous offence of murder by stabbing the deceased. The brother of the deceased, allegedly saw the Applicant assaulting the deceased with a knife. His narrative attributes to him not only the initial assault, which resulted in injuries on the deceased's elbow, but also a subsequent attack on his thigh, allegedly after being incited by co-accused. When the deceased's friends sought to intervene, the Applicant is said to have threatened them with the weapon, thereby preventing their effective intervention. It is further alleged that the Applicant, along with his companions, fled the scene immediately thereafter.

6. The deceased was taken to the hospital where he succumbed to his injuries. The post-mortem report attributes the cause of death to haemorrhagic shock induced by a stab wound to the left thigh, an injury opined to be sufficient in the ordinary course of nature to cause death. On a *prima facie* assessment, therefore, the fatal injury sustained by the deceased stands squarely linked to the act attributed to the Applicant.

7. Furthermore, the recovery of the weapon of offence, namely, the knife, as well as the clothes allegedly worn by the Applicant at the time of the incident, was effected pursuant to his disclosure statement during police custody. Forensic analysis also indicates that both the knife and the clothes bore traces of the deceased's blood. Under Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023 (*pari materia* to Section 27 of the Indian Evidence Act, 1872), that part of a statement which distinctly relates to the discovery of a fact is admissible in evidence. As settled in ***K. Chinnaswamy Reddy v. State of A.P.***,<sup>4</sup> this provision constitutes a limited exception to Sections 25 and 26, which prohibit the proof of a confession made to a

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<sup>4</sup> 1962 SCC OnLine SC 32, see also: Randeep Singh v. State of Haryana, 2024 SCC OnLine SC 3383.



police officer/ made in police custody, allowing the admissibility of only that part which distinctly relates to the discovery. While the ultimate evidentiary weight of such recoveries and the FSL report is a matter for trial, the statement leading to these recoveries, along with their forensic corroboration, lends *prima facie* credence to the Prosecution's case.

8. The plea of parity advanced on behalf of the Applicant, by drawing reference to the grant of bail to co-accused Rahul Gupta @ Tyagi and Amar @ Kanha, also does not persuade this Court. The distinction in their roles is both apparent and material. While the co-accused are alleged to have merely restrained the deceased, the Applicant is attributed with the direct and fatal act of stabbing him. Furthermore, the orders granting bail to co-accused Rahul Gupta @ Tyagi and Amar @ Kanha, were premised on the fact that the eyewitnesses had not supported the Prosecution's case during trial. While this circumstance may have weighed in favour of the co-accused at the stage of their bail applications, it is pertinent to note that no recovery of any incriminating material was effected from them. In contrast, the Applicant has led to the recovery of the knife alleged to have been used in the offence, as well as blood-stained clothes, both of which, as per the FSL report, have been linked to the deceased. Therefore, the considerations which extended to the co-accused, cannot enure to the benefit of the Applicant. The principle of parity, therefore, finds no application in the present case.

9. The Applicant has remained in custody since 22<sup>nd</sup> July, 2018. While the length of incarceration is a factor that weighs with the Court in considering bail, it cannot, by itself, overshadow the seriousness of the accusation of murder under Section 302 IPC, a charge carrying the



maximum penalty of death or life imprisonment. Added to this is the Prosecution's assertion that the Applicant is involved in multiple other criminal cases. In light of these antecedents, there exists a genuine apprehension that his release may imperil the course of the trial.

10. At this juncture, it is apposite to refer to the judgement of the Supreme Court in the recent case of *Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.*,<sup>5</sup> wherein the Court emphasised that bail is a discretionary relief, to be granted or denied based on the specific facts and circumstances of each case. The Court further delineated the factors to be taken into consideration while exercising such discretion. The relevant extracts of the aforementioned judgment are as follows:

*"11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:*

*11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.*

*11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.*

*11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.*

*11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail."*

[Emphasis Supplied]

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<sup>5</sup> 2023 INSC 761.



11. In light of the foregoing legal principles, and having regard to the Applicant's direct role in stabbing the deceased during the alleged incident, the recovery of the alleged weapon of offence at his instance, his involvement in multiple other criminal cases, and the reasonable apprehension of his absconding, or tampering with evidence, this Court finds no compelling ground to grant bail to the Applicant. Dismissed.

12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

**SANJEEV NARULA, J**

**AUGUST 19, 2025**  
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