



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

Reserved on: 26th May, 2025
Pronounced on: 28th May, 2025

+ BAIL APPLN. 981/2025

AMAN

.....Petitioner

Through: Ms. Dolly Sharma, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Dinesh Kumar Sharma,
Ms. Priyanka Siwas, Mr. Jai Subhash
Thakur, Mr. Dinesh Kumar Madesiya
and Mr. Shivam, Advocates for R-2.
Mr. Hemant Mehla, APP for State
with Mr. Mahendra Kr., Insp. and
Mr. Sachin Maan, Insp., PS-S.B.
Dairy.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The present application filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Sections 439 and 482 the Criminal Procedure Code, 1973²) seeks grant of regular bail in proceedings arising from case FIR No. 922/2022 dated 2nd December, 2022, registered under Section 365 of the Indian Penal Code, 1860³, at P.S. Shahbad Dairy, Delhi. The chargesheet filed in the matter includes offences

¹ "BNSS"

² "CrPC"



under Sections 365, 302, 201, 120B and 34 of the IPC as well as Sections 25, 54 and 59 of the Arms Act, 1959⁴.

2. The case of the prosecution, briefly stated, is as follows:

2.1. The Complainant, Ms. Sunita, reported that on 27th November, 2022, at around 6:00 PM, her husband, Jai Kumar (aged about 45 years), left for a friend's wedding, alone, on his two-wheeler but did not return. His mobile phone had also been found switched off. Based on this, she suspected abduction, leading to the registration of the present FIR and initiation of investigation.

2.2. During investigation, based on the suspicion raised by the family members of the deceased, one Deepak @ Bhola was interrogated. At his instance, a half burnt dead body was recovered from Baghpat, U.P. The body was later identified by the family as that of the missing Jai Kumar.

2.3. Deepak @ Bhola was arrested on 4th December, 2022. In his disclosure statement, he stated that about one and a half years ago, the deceased, along with his maternal cousins, had previously attacked his cousin, Raj Kumar @ Nanhe (co-accused), and damaged his car. Based on this disclosure, the names of other co-accused, including Raj Kumar @ Nanhe and Aman (the Applicant), emerged.

2.4. On the basis of the disclosures and the material gathered during investigation, the prosecution, alleges that in the intervening night of 27th and 28th November, 2022, the accused persons noticed the deceased riding alone near Delhi Technological University, Shahbad Daultpur. They allegedly intercepted him, forcibly took him into an abandoned building, and

³ "IPC"

⁴ "Arms Act"



assaulted him to death. Thereafter, they placed the body in a plastic bag, transported it to Baghpat in a vehicle, poured petrol on it, and set it ablaze in an effort to destroy evidence.

2.5. At the instance of the co-accused, a car allegedly used to transport the body from the place of incident to Baghpat for disposal, as well as a motorcycle from which petrol was used to used to burn the weapon of offence i.e., *danda*, clothes and the deceased's body, were recovered. Further, at the instance of Deepak @ Bhola, one country made pistol loaded with two live cartridges was recovered.

2.6. The Applicant was arrested on 12th December, 2022, following disclosure by Deepak @ Bhola and receipt of secret information. At his instance, the place of disposal of the deceased's two-wheeler was identified. The Call Detail Records⁵ of the Applicant's mobile phone revealed his location near the alleged abduction site i.e., near Delhi Technological University, Shahbad Daulatpur, Delhi, at the relevant time.

2.7. All accused persons were part of a premeditated conspiracy to abduct and murder the deceased, and to destroy evidence. A chargesheet under Sections 365, 302, 201, 120B and 34 of IPC as well as Sections 25, 54 and 59 of the Arms Act has since been filed against them, and the matter is presently pending trial.

3. The Counsel for Applicant makes the following submissions seeking grant of regular bail:

3.1. The Applicant has been falsely implicated and has been in judicial custody since 12th December, 2012. There is no direct or substantive

⁵ "TCR"



evidence connecting him to the commission of the alleged offence. The entire case, insofar as it concerns the Applicant, rests upon the alleged criminal conspiracy. The prosecution has failed to place on record any cogent or credible material that would satisfy the legal threshold required to establish a *prima facie* case of conspiracy under law. The only incriminating reference to the Applicant arises from the disclosure statement of co-accused Deepak @ Bholra, which, being in the nature of a confession made to a police officer, is inadmissible in evidence under Section 25 of the Indian Evidence Act, 1872⁶, unless duly corroborated by independent material, something which is conspicuously absent in this case.

3.2. There is no recovery whatsoever from the possession of the Applicant, nor is there any material that would satisfy the legal threshold under Section 120B of IPC to establish a *prima facie* case of conspiracy. The essential ingredients of a criminal conspiracy, namely the existence of an agreement to commit an unlawful act and some overt act in pursuance thereof, are conspicuously absent in the present case as far as the Applicant is concerned. No specific role has been assigned to him, nor is there any attributed motive linking him to the crime. On the contrary, the alleged motive appears to be directed against one of the co-accused, Raj Kumar @ Nanhe, thereby further distancing the Applicant from the core of the alleged conspiracy.

3.3. The co-accused Raj Kumar @ Nanhe, who does not have clean antecedents and has both a clear motive and a direct role assigned to him in the alleged offence, has been granted bail by this Court *vide* order dated 14th

⁶ “IEA”



November, 2024, in BAIL APPLN. 3726/2024. In contrast, the only allegation against the present Applicant is that he kept watch outside the building while the incident was unfolding. On the anvil of parity, it is submitted that the Applicant, who has been assigned a comparatively minor role, is similarly entitled to the benefit of bail.

3.4. The material prosecution witnesses including PW6 (the Complainant), have been examined before the Trial Court and have not made any incriminating statements against the Applicant. In fact, the testimonies recorded thus far do not support the prosecution's case against him. The remaining witnesses are largely formal in nature, and in these circumstances, the likelihood of further material emerging against the Applicant is remote.

3.5. There was inordinate delay in lodging the present FIR. As per the Complainant, the deceased was missing since 27th November, 2022, but the present FIR was registered only on 2nd December, 2022, for which no plausible explanation has been given.

3.6. The Applicant is a young man of approximately 25 years of age, with no previous criminal antecedents. The investigation has concluded, the chargesheet has already been filed, and the trial is likely to take considerable time. Thus, continued detention would serve no meaningful purpose and that the Applicant may be released on appropriate terms and conditions.

4. *Per contra*, Mr. Hemant Mehla, APP for the State, strongly opposes the present bail application advancing the following submissions:

4.1. The material on record clearly implicates the Applicant in the commission of the offence. The case against him is not based solely on the disclosure statement of a co-accused; rather, it is supported by corroborative circumstantial evidence, including CDR analysis, which places the



Applicant's mobile phone near the site of the alleged abduction i.e., the vicinity of Delhi Technological University, Shahbad Daulatpur, at the relevant time.

4.2. The Applicant's involvement was not peripheral or passive. As per the statements recorded during investigation, the Applicant actively participated in the execution of the offence by maintaining vigil outside the abandoned building while the deceased was being assaulted inside. Additionally, the deceased's two-wheeler was recovered at the instance of the Applicant during custodial interrogation.

4.3. An analysis of the CCTV footage obtained from a toll booth reveals that the car allegedly used by the Applicant and Deepak @ Bhola to transport the deceased's body, was seen exiting towards Baghpat, U.P.

4.4. The crime, was not an act committed on the spur of the moment but rather a cold-blooded and calculated offence, carried out pursuant to a long-standing grudge arising from an earlier altercation involving one of the co-accused. The conduct of the accused persons, including abducting the victim, murdering him, transporting his body to a distant location, and setting it ablaze, indicates a concerted effort to not only eliminate the victim but to also destroy evidence and impede investigation.

4.5. The post-incident conduct of the Applicant lends credence to his involvement. The Applicant's failure to report the abduction, despite being at the location, as indicated by the CDR, raises suspicion and is indicative of guilty knowledge.

4.6. In view of the nature and seriousness of the offence, the history between the Applicant and the deceased and the role attributed to the Applicant, there exists a real and substantial apprehension that the Applicant



may commit similar or other serious offences in order to take revenge from the deceased's family and may pose a risk to the fair conduct of the trial, particularly by way of possible intimidation of witnesses or tampering with evidence.

5. The Court has considered the afore-noted facts and contentions. While the allegations levelled in the present case are indeed grave, implicating multiple accused in a premeditated abduction and murder, however, bail cannot be denied solely on the basis of the nature of the offence. The decision to grant or deny bail must rest on a careful and balanced appraisal of the overall circumstances surrounding the individual accused keeping in mind several factors relating to the case, such as – whether there is any *prima facie* reasonable ground to believe that the accused has committed the offence, the nature and gravity of the accusation, severity of potential punishment, risk of the accused absconding or fleeing if released on bail, the likelihood of the offence being repeated, etc.⁷

6. The Court is equally mindful of the principle that while considering a bail application, the Court is not required to conduct a meticulous inquiry into the merits of the prosecution case. At this stage, the Court is to form a *prima facie* view on whether the material discloses reasonable grounds to believe that the accused may be guilty of the alleged offence. A bail hearing must not be converted into a mini-trial, as cautioned by the Supreme Court in *Sangitaben Shaileshbhai Datanta v. State of Gujarat*.⁸

7. Insofar as the present Applicant is concerned, the prosecution's case against him is not that he was seen committing the offence or that any

⁷ *Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.* (2010) 14 SCC 496

⁸ (2019) 14 SCC 522



eyewitness places him at the scene of crime. The case against him is built entirely on circumstantial evidence. The primary incriminating materials are: (i) the disclosure statement of co-accused Deepak @ Bhola, and (ii) CDR showing the location of the Applicant's mobile phone in proximity to the scene of abduction.

8. However, it is trite law that a disclosure statement made by a co-accused under police custody, unless corroborated by independent evidence, is inadmissible and cannot form the sole basis of conviction or denial of bail. In *Haricharan Kurmi v. State of Bihar*,⁹ the Supreme Court held that the confession of a co-accused cannot be used against another accused unless there is substantive evidence to support it. In the present case, apart from this disclosure, the only corroboration offered is the CDR analysis placing the Applicant's phone in the vicinity of the scene of abduction, a circumstance which by itself cannot establish guilt.

9. The specific role attributed to the Applicant is that he allegedly stood guard outside the abandoned building while the deceased was assaulted inside. There is no recovery of any incriminating object from the Applicant. The CCTV footage showing the car allegedly used to transport the body, does not establish the Applicant's presence inside the vehicle. In fact, on a pointed query from the Court, it has been confirmed that the Applicant's mobile phone location also could not be traced to Baghpat, U.P., where the body was disposed of. This break in the chain of events *prima facie* undermines the allegation of a continuous and common design attributable to the Applicant.

⁹ 1964 SCR (6) 623



10. The prosecution's case rests primarily on the doctrine of criminal conspiracy. At this stage, *prima facie* there is no material reflecting any overt act by the Applicant or any indication of his role in the planning or execution of the murder. Whether the nature and content of the calls exchanged by the Applicant and co-accused demonstrate any incriminating nexus in furtherance of a criminal design is a matter that must be tested at trial. The evidentiary chain, as it presently stands, falls short of meeting the threshold of compelling *prima facie* involvement so as to deny bail.

11. The investigation stands concluded and a detailed chargesheet has been filed. As per the Nominal Roll as on 9th April, 2025, the Applicant has already been in custody for over two and a half years. He has no prior criminal antecedents, and the prosecution has not alleged any attempt on his part to intimidate witnesses or tamper with the evidence. Several material prosecution witnesses have already been examined during trial, and none have implicated the Applicant in any direct role.

12. In view of the totality of circumstances, the Court is of the considered opinion that continued incarceration of the Applicant, in the absence of compelling evidence and in the face of a prolonged trial, would be unjustified and punitive in nature.

13. During the course of arguments, the daughter of the deceased had expressed apprehension that the Applicant, if released on bail, might intimidate her. She also pointed out that the co-accused, Raj Kumar @ Nanhe has also threatened her of dire consequences, and releasing the Applicant would likely embolden all the accused persons. Considering these apprehensions, the Court finds it appropriate to direct the police to provide adequate security, including the deployment of an armed personnel outside



her residence, in accordance with the Witness Protection Scheme, 2018, and the Delhi Witness Protection Scheme, 2025. The threat assessment and security arrangement be reviewed periodically.

14. Accordingly, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM / Jail Superintendent, on the following conditions:

- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- c. The Applicant shall appear before the Trial Court as and when directed;
- d. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The Applicant shall not reside in 5 KM radius of the deceased's immediate family members;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

15. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

16. 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 should also not be taken as an expression of opinion on the merits of the case.

17. The bail application is allowed and disposed of in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 28, 2025

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