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

+ **BAIL APPLN. 2654/2024**

**SUSHIL KUMAR**

.....Petitioner

Through: Mr. R.S. Malik, Mr. Sahil Malik, Mr. Sumeet Shokeen, Mr. Abhishek Kumar, Mr. Ankit Jha, Mr. Kanav Gupta, Mr. Aaditya Jain, Mr. Chetan Dabas, Mr. Lalit Rana, Mr. Nakul Khatri and Mr. Sahil Lakhra, Advocates.

versus

**STATE NCT OF DELHI**

.....Respondent

Through: Mr. Raghuvinder Verma, APP for the State.  
Insp. Mangesh Tyagi, ARSC/ Crime Branch.  
Mr. Joginder Tuli, Ms. Joshini Tuli, Mr. Shrikant Sharma and Mr. Taneja Qureshi, Advocates for Complainant with Complainant in person/ father of the deceased.

**CORAM:**

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

**ORDER**

**04.03.2025**

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (formerly Section 439 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks regular bail in proceedings arising from FIR No. 218/2021 registered at P.S. Model Town under Sections 308, 325, 323, 341, 506, 188, 269, 34 of the Indian Penal Code, 1860<sup>3</sup> and Sections

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C."

<sup>3</sup> "IPC"



25, 54, 59 of the Arms Act, 1959.

2. Briefly, the case of the prosecution is as follows:

2.1. On 5<sup>th</sup> May, 2021, a PCR call (DD No. 09A) was received at P.S. Model Town reporting gunfire inside the Chhatrasal Stadium, Delhi. The call was assigned to ASI Jitender Singh, who, along with his team, reached the scene and found that a violent altercation had taken place in the stadium's parking area. The injured individuals – Mr. Sonu, Mr. Sagar, and Mr. Amit – had already been transported to BJRM Hospital, Jahangir Puri, by the PCR van and local police. ASI Jitender proceeded to the hospital, obtained their MLCs and was informed that all three had been referred to a higher medical facility for further treatment. No eyewitnesses were found at the hospital.

2.2. During the inspection of the crime scene, five vehicles were found at the location. A detailed examination led to the recovery of a double-barrel loaded gun with three live cartridges and four mobile phones from a vehicle bearing registration No. HR-29-AJ-0110. Additionally, two blood-stained wooden sticks, a blood-stained handkerchief, a blood-stained chair seat, and a blood-stained water jug were recovered from the vicinity. A 'Parna' stained with blood was found inside a vehicle bearing No. DL-8C-AY-6206, along with bloodstains in its trunk. This vehicle was registered in the name of Mr. Sushil Kumar @ Sushil Pehalwan (the Applicant) and was allegedly used in the commission of the offence. Bloodstains were observed at multiple locations at the scene. All recovered items and vehicles were seized through seizure memos. Local inquiries revealed that the Applicant and his associates had assaulted the victims, leading to the registration of the present FIR and the commencement of the investigation.



2.3. The investigation revealed that on the night intervening 4<sup>th</sup> May and 5<sup>th</sup> May, 2021, the victims Mr. Ravindra @ Bhinda and Mr. Amit @ Khagad were abducted from Shalimar Bagh, Delhi, while Mr. Sagar Dhankhad (deceased), Mr. Jai Bhagwan @ Sonu, and Mr. Bhagat @ Bhagtu were abducted from their residence at H.No. M2/1-C, Model Town-III, Delhi. They were taken to Chhatrasal Stadium, where they were brutally beaten by the accused persons using *lathis*, *dandas*, and hockey sticks, with the intent to kill them. Some of the accused were armed with firearms. Upon hearing the siren of a police van, the Applicant and his associates attempted to hide the injured Mr. Sagar Dhankhad and Mr. Jai Bhagwan @ Sonu in the basement of Chhatrasal Stadium before fleeing the scene.

2.4. On 5<sup>th</sup> May, 2021, the injured Mr. Sagar, who had been admitted to the Trauma Centre after sustaining injuries during the quarrel at Chhatrasal Stadium, succumbed to his injuries during treatment. Thereafter, a postmortem examination of the deceased was conducted at BJRM hospital, Jahangir Puri, Delhi, through PM No. 372/21. The postmortem report stated that the *“death is due to cerebral damage as a result of blunt force/object impact. All injuries are ante-mortem in nature.”* Consequently, Section 302 of IPC was added to the case. The crime scene was then revisited with a team from FSL, Rohini, Delhi, and additional exhibits were seized. A black-coloured vehicle bearing registration No. DL-8C-AX-6725, which was also used in the commission of the offence, was seized from the spot.

2.5. On the same day, the accused Mr. Prince was arrested from Chhatrasal Stadium with a loaded double-barrel gun. A mobile phone recovered from his possession contained a video recording of the incident, approximately one minute in duration, capturing a crucial part of the crime.



The video shows the Applicant and his associates armed with *lathis*, *dandas*, hockey sticks, and firearms, brutally and mercilessly assaulting the injured/victim Mr. Sagar and Mr. Jai Bhagwan @ Sonu. The Applicant is clearly visible in the video beating the deceased Mr. Sagar and the injured Mr. Jai Bhagwan @ Sonu with a wooden stick. The recovered mobile phone was sent to FSL, Gandhi Nagar, Gujarat, for examination. The expert report concluded that “*No sign of edit/alteration/tampering was observed within this video file.*” Furthermore, it was opined that “*No sign of edit/alteration/tampering was observed within this video file.*”

2.6. On 7<sup>th</sup> May, 2024, another vehicle bearing registration No. HR-15D-5466, used in the commission of the offence, was seized from the spot.

2.7. During investigation, statements under Section 161 of Cr.P.C. of victims/injured namely, Mr. Jai Bhagwan @ Sonu, Mr. Ravindra @ Bhinda, Mr. Bhagat @ Bhagtu and Mr. Amit @ Khagad were recorded and they all categorically stated that the Applicant, along with his associates, had committed offence of the present case. The Applicant conspired to commit this offence along with the other accused persons and in fact, he was leading the culprits.

2.8. After committing offence of the present case, the Applicant wilfully evaded arrest and ran away from the spot. Non-Bailable Warrants were issued against him by the Court on 15<sup>th</sup> May, 2021 and he was arrested on 23<sup>rd</sup> May, 2021.

2.9. During investigation, total 20 accused persons have been arrested in the present case, so far and charge sheet under Sections 302/307/308/ 364/ 365/452/323/342/188/269/147/148/149/506(II)/392/394/397/411/201/109/ 120-B/ 34/174-A of IPC and Sections 25(1)(B)/27(1) of the Arms Act, 1959



has been filed against 21 accused persons.

2.10. The Applicant's earlier request for bail has been rejected by the Trial Court through order dated 22<sup>nd</sup> July, 2024.

3. In the above background, the Applicant submits that he has been falsely implicated and urges the following:

3.1. The Applicant has been in custody since 23<sup>rd</sup> May, 2021. The investigation is complete, the chargesheet has been filed, and charges have been framed. The trial has already commenced, with the prosecution listing 189 witnesses in the chargesheet. However, only 30 witnesses have been examined so far. Given the likely prolonged duration of the trial, the Applicant is entitled to be enlarged on bail.

3.2. There has been a material change in circumstances since the dismissal of the regular bail application by the Trial Court. Since then, 24 prosecution witnesses, including eyewitnesses, have been examined. All eyewitnesses and injured persons who have deposed before the Court have turned hostile and have not corroborated the prosecution's version.

3.3. The prosecution's case relies heavily on an alleged video recording of the incident, which merely captures human shadows and indistinct figures moving about. Furthermore, the prosecution claims that the video was recorded by one of the co-accused on his mobile phone. However, neither the mobile phone nor the SIM card used in the said phone belonged to the co-accused in question.

3.4. The Applicant has been granted interim bail on three occasions by the Trial Court and has duly surrendered before the jail authorities each time, strictly complying with all conditions imposed upon him and therefore, is not a flight risk.



3.5. The Applicant has deep roots in society and is a recipient of the highest civilian awards conferred by the Government of India in the sport of wrestling, including the Padma Shri, Rajiv Gandhi Khel Ratna Award, and Arjuna Award.

3.6. PW-5, the autopsy surgeon, in his testimony, has opined that the injuries sustained by the deceased were not sufficient to cause death.

3.7. The Applicant has no criminal antecedents and undertakes to abide by the conditions of bail, if the same were to be granted.

4. On the other hand, Mr. Raghuvinder Verma, APP for the State, vehemently opposes the bail application and submits as follows:

4.1. In the video footage recorded by co-accused Mr. Prince on his mobile phone, the Applicant is clearly seen assaulting the deceased Mr. Sagar and the injured Mr. Jai Bhagwan @ Sonu with a *danda*, mercilessly and with intent to kill. The postmortem report of the deceased and the MLCs of the injured corroborate that they were brutally beaten with the intention to cause fatal injuries.

4.2. The Applicant's vehicles, DL-8C-AY-6206 (Honda City-White) and HR-15D-5466 (Fortuner-White), which were used in the commission of the offence, were recovered from the scene. Blood stains matching the deceased Mr. Sagar were found on the upper trunk of the vehicle bearing No. DL-8C-AY-6206. A blood-stained *Parna* was also recovered from the said vehicle, and forensic analysis confirmed that the blood matched that of the injured Mr. Ravinder @ Bhinda. The presence of the vehicle near M-Block, Model Town-III, Delhi, at the relevant time is further established through CCTV footage analyzed by FSL, Rohini, Delhi.

4.3. The Applicant's mobile phone location was traced to multiple



relevant spots at the material time and date of the incident.

4.4. ASI Avinash, who transported the injured Mr. Sagar to BJRM Hospital, stated in his deposition before the Court that on the way to the hospital, the injured (later deceased) Mr. Sagar said, “*Sushil ne mere sath achchha nahin kiya. Use mai apna guru manta tha, lekin usne mere sath bina kisi baat ke marpit ki aur apne sathiyon se bhi mujhe pitwaya hai.*”

4.5. The Applicant conspired with other co-accused, orchestrating the presence of multiple individuals and weapons at the crime scene to execute the offence. This is substantiated by the presence of approximately 20 assailants armed with weapons, as well as the recovery of 7 vehicles from the spot, all linked to various accused persons arrested in the case. Several mobile phones and weapons were also recovered from these vehicles.

4.6. The present case is of serious nature involving grave offences, with 20 accused persons arrested so far and a charge sheet filed against 21 individuals.

4.7. The Applicant resides in the same locality and belongs to the same community as the witnesses, creating a significant likelihood that he may exert undue influence on them if released on bail.

5. Mr. Shrikant Sharma, counsel representing father of the victim, also vehemently opposes the bail application and raises the following contentions:

5.1. The Applicant is the main accused and conspirator, specifically named in the present FIR. He had a prior enmity with the deceased and the injured, as the deceased was a wrestler training under his mentorship at Chhatrasal Stadium. A few months before the incident, the Applicant rented a flat in his wife’s name and later asked the deceased to vacate it. The



deceased requested additional time to arrange alternative accommodation, which allegedly bruised the Applicant's ego and reputation. For this reason, the Applicant decided to eliminate the deceased and the injured, culminating in the brutal assault on the intervening night of 4<sup>th</sup> and 5<sup>th</sup> May, 2021, wherein the Applicant, along with other accused persons, mercilessly beat the deceased.

5.2. The Applicant evaded arrest and remained absconding for 20 days before being apprehended. His attempt to evade law enforcement demonstrates that, if released on bail, there is a strong likelihood that he may abscond again and avoid trial, as he has previously failed to cooperate with the investigation.

5.3. The testimony of injured eyewitness PW-1, Mr. Jai Bhagwan @ Sonu, in his examination-in-chief, is clear, specific, and unambiguous. He identified all the accused persons, including the Applicant. His testimony, therefore, is sufficient to establish the charges against the Applicant. Although he later turned hostile during cross-examination, this was evidently due to threats from the Applicant. The intimidation faced by PW-1 is further evident from the averments made by him in his bail application before the High Court of Punjab and Haryana in FIR No. 73/2023 dated 12<sup>th</sup> May, 2023, under Sections 147, 149, 452, 506 of IPC read with Section 25 of the Arms Act at PS Mohana, District Rai, Sonipat. Given these circumstances, his cross-examination must be disregarded. Furthermore, during his re-examination, it became evident that his contradictory statements in cross-examination were made under coercion. His initial testimony fully corroborated the prosecution's case, and his subsequent retraction does not negate its evidentiary value. In any event, the delay of





nearly 7 months between his examination-in-chief and cross-examination, during which he was recalled only after a prolonged interval, raises serious concerns about external influence. Given these circumstances, his testimony remains a valid and sufficient basis for conviction.

5.4. PW-1 has identified the Applicant in video recordings captured on the mobile phone of co-accused Mr. Prince, which was recovered as evidence. This video evidence, along with other scientific evidence—including the recovery of the Applicant’s vehicle from the crime scene and forensic confirmation that the bloodstains found in his vehicle matched those of the deceased—provides strong corroborative proof of the Applicant’s involvement in the incident.

5.5. The Applicant, an Olympian and a public figure, has allegedly leveraged his influence to intimidate witnesses, coercing them into turning hostile despite having sustained grievous injuries. The fear for their safety and that of their families compelled them to retract their statements. However, the video footage seized during the investigation unequivocally captures the Applicant and his co-accused assaulting the victims. This videographic evidence, coupled with other material on record, provides substantial grounds to support the prosecution’s case and establish the charges against the Applicant.

6. The Court has considered the afore-noted contentions. Since the matter pertains to heinous offence, the Court has deliberated on all the contentions advanced by both sides.

7. The Applicant has been in judicial custody since 23<sup>rd</sup> May, 2021. As per the Nominal Roll, as on 2<sup>nd</sup> September, 2024, the Petitioner has been in custody for 3 years, 2 months and 1 day. As of today, this period extends to



nearly 3 years and 7 months. The progress of the trial, based on the number of witnesses examined *vis-à-vis* the total cited witnesses, suggests that its conclusion is not imminent. The prosecution has listed 189 witnesses in the chargesheet, yet only 30 have been examined so far. While the Applicant's right to a speedy trial is undeniable, the protracted nature of the proceedings lends weight to his claim under Article 21 of the Constitution of India, 1950.

8. That said, while the right to a speedy trial is an important consideration, it is not the sole determining factor. A crucial aspect that weighs in is the status of the witnesses examined thus far. Pertinently, all injured witnesses and key eyewitnesses to the alleged incident have already been examined. The status report indicates that 24 witnesses, including those present at the scene, have testified—yet none have supported the prosecution's case, having turned hostile. This development remains unchallenged by Mr. Verma.

9. The Court also notes that PW-1 initially identified the Applicant during his examination-in-chief but later, in cross-examination, completely retracted his statement. As for the video footage relied upon by the prosecution for identification, PW-1, during cross-examination, stated: *"The video footage which I had seen at the time of my examination as a witness before this Court did not clearly show the body features and face of accused Sushil and others, making them unidentifiable."*

10. Mr. Verma, APP for the State, and Mr. Sharma, counsel for the victim's family, strongly contend that PW-1's retraction during cross-examination was made under threat and coercion. They argue that his examination-in-chief, corroborated by other scientific evidence on record, is sufficient to establish the offence. However, at this stage, the Court must



refrain from making any observations on these contentions, as it may prejudice either party. It is sufficient to note that PW-1's statements in cross-examination directly contradicts his testimony in examination-in-chief, and the two versions are irreconcilable. Whether his retraction was coerced and whether it should be disregarded are issues to be assessed by the Trial Court at the stage of final adjudication.

11. Furthermore, it is significant to note that all key prosecution witnesses expected to testify against the Applicant have already been examined, as confirmed by the APP for the State. While one additional material witness, Mr. Vikash Mishra @ Nepali, remains to be examined, his testimony is not anticipated to pertain to the Applicant's role in the alleged offence. Given this, the possibility of the Applicant influencing witnesses stands effectively ruled out.

12. In view of the above, it is evident that there has been a significant change in circumstances since the Trial Court last rejected the Applicant's bail plea, as all key eyewitnesses and material witnesses have now been examined. The fact that all material prosecution witnesses have failed to support the prosecution's case, coupled with the anticipated delay in the trial's completion, weighs in favour of granting bail. Furthermore, the Applicant has not misused the interim bail granted to him, which further minimises the flight risk.

13. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, 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, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

f. The Applicant shall not contact any witnesses or their family members in any manner;

g. The Applicant shall mark his attendance at the concerned P.S. on the first and fourth Monday of every month.

14. 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.

15. 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.

16. The bail application is allowed in the afore-mentioned terms.

**SANJEEV NARULA, J**

**MARCH 4, 2025/d.negi**