



2025:DHC:571



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

% *Pronounced on: 30th January, 2025*

+ **BAIL APPLN. 4635/2024 & CRL.M.(BAIL) 2141/2024**
(for interim bail)

CHARAN SINGH @ BABLI

S/o Rampat

Presently lodged in CJ.3, Tihar Jail, Delhi

Through Pairokar/son

Nishant Khatana

S/o Charan Singh

R/o B-929, Sangam Vihar,

South, Pushpa Bhawan,

South Delhi-110062

.....Petitioner

Through: Mr. Tanveer Ahmed Mir, Senior Advocate with Ms. Neha Kapoor, Mr. Kaushal Mehta and Mohd. Imran Ahmad, Advocates.

versus

STATE OF NCT OF DELHI

Through

SHO

PS: Sangam Vihar

.....Respondent

Through: Ms. Meenakshi Dahiya, Ld. APP for the State with SI Arvind and SI Reghuraj P.S. Sangam Vihar. Mr. Rajpal Kasana, Ms. Moni Rexwal, Mr. Lovneet Bhati, Mr. Vishal Khari and Mr. Nagendra Kasana, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. First Bail Application under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*)/Section 483 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the **Applicant, Charan Singh @ Babli**, for grant of Regular Bail in FIR No. 228/2018 under Section 307/34 of the *Indian Penal Code, 1860* (*hereinafter referred to as 'IPC'*) read with Section 27/54/59 of the *Arms Act, 1959* registered at Police Station Sangam Vihar.

2. It is submitted that the Applicant, Charan Singh is languishing in judicial custody for more than 04 years and till date, only 09 witnesses out of 40 witnesses, have been examined. There are 11 accused persons including one juvenile, out of which 08 accused persons have been granted Regular Bail by the learned Trial Court. All the eye-witnesses have already been examined and there is no apprehension of influencing the witnesses. Furthermore, there is no threat perception to any of the witnesses. The Applicant had been released on Interim Bail earlier during Covid period, but nothing adverse was reported against him.

3. It is submitted that the FIR was registered on 15.06.2018, on the Complaint of Sh. Manish/PW-2 alleging that on 14.06.2018 at around 8:00 p.m., he had gone to get water from Government pipeline from outside the house of the Applicant, when he started beating the Complainant. Sh. Krishan, father of the Complainant and Sh. Chahat, his Uncle, came to intervene and all of them returned to their house. Thereafter, the Applicant along with his brother, Gagan, Kannu and father, Sh. Rampat, cousins, Billu and Jaswar, came and started throwing bricks and stones upon the



Complainant and his family members. It was further alleged that Rampat hit Suman with stone on foot, Gagan hit the Complainant on his head with stone and *the Applicant took out the pistol and fired upon the Complainant, which hit him on his hand*. Thereafter, the Applicant called Atwa, to whom he handed over the Pistol who opened fire on Krishan, which hit him on his chest, while other accused persons were beating and pelting stones on the Complainant and his family members. Thereafter, Krishan was taken to hospital and he died.

4. *FIR No. 228/2018 under Section 307/34 of the IPC read with Section 27/54/59 of the Arms Act*, was registered at Police Station Sangam Vihar, on 15.06.2018 at 1.15 a.m., i.e. after the delay of almost 5 hours of reporting of the incident by making a PCR Call at 8:35 p.m. on 14.06.2018. DD No. 81 A dated 14.06.2018, was registered on the PCR call.

5. The PCR Call and *DD No. 81 A* noted the time as 8:35 p.m. and it mentioned that *“In a quarrel, firing took place and one person has been shot”*, which is in complete contrast to the testimony of PW-2/Complainant wherein after watching the CCTV footage of the spot of incidence, he deposed that on 20:40:44, his father was seen in white shirt pushing all the boys towards his house and at 20:41:36, his father was seen running with blood coming out from the right side of his chest. He further deposed that at 20:40:21, he had seen the Applicant carrying a *danda* in his hand and going towards the house of Babli. At 20:43:14, the Applicant was seen having a *danda* in left hand and throwing a brick from right hand towards the house of Rampat.



6. It is claimed that had the Complainant being shot, it would have found a mention in the PCR Call and DD Entry which was recorded thereafter. Further, it is evident from the video footage that there was no such injury on the left hand of the Complainant. More so, he admits that he had a *danda* in his left hand, however, had there been an injury caused to his hand, he would not have been able to lift the *danda*. It is claimed that the testimony of eye witnesses, is contradictory to the video footage.

7. The Applicant has further submitted that the *Charge-Sheet under Section 302/307/34 of the IPC read with Section 25/27/54/59 of the Arms Act, has been filed in September, 2018 and the two Supplementary Charge-Sheets along with the FSL Reports, have been filed subsequently. Vide Order dated 09.08.2019, Charge under Section 302/307 read with Section 34 of the IPC, has been framed against all the accused and an additional Charge under Section 27 of the Arms Act, has been framed against the Applicant, even though there was no recovery of weapon from him nor was he seen carrying the arms in the CCTV video footage. The Site Plan is also not witnessed by the Complainant despite his statement that the Site Plan was prepared by the Investigating Officer, at his instance.*

8. It is asserted that there are material contradictions in the testimony of eye witnesses. The case of the Applicant, cannot be equated with Atwa, as the role ascribed to the Applicant is that he hit the bullet on the hand of the Complainant, though no such act is visible in the CCTV footage.

9. Though the Complainant has claimed that he was shot in the left hand but he was not examined in Batra Hospital along with his father and no reason for the same, has been provided by the prosecution. There is no



explanation as to why the Complainant was taken to AIIMS Trauma Centre. It further creates a doubt on the story of the Prosecution.

10. Furthermore, the MLC of Manish reflects that one gunshot injury on left forearm, though the prosecution has failed to establish that the said gunshot injury was linked to the Applicant; more so in terms of testimony of PW-2/Complainant and the CCTV footage.

11. Furthermore, allegedly the Complainant was carrying a weapon in his left hand and was actively pelting stones even after his father was allegedly shot. Therefore, it cannot be ruled out that the gunshot injury on his left forearm was self-inflicted, more so for the reason that as per the FSL Report dated 21.01.2019, the bullets recovered from the body of the deceased, Krishan and Manish respectively, could not be linked to the Fire Arm recovered on the disclosure of Atwa. In fact, there is no recovery of any weapon from the Applicant nor the pistol allegedly recovered is linked in any manner to him. No efforts were made to even lift chance prints from the pistol allegedly used in the commission of offence. Only empty cartridge was recovered from the spot but there is no reference to other empty cartridge *qua* the two bullets allegedly recovered from the body of the Complainant and the deceased respectively.

12. Further, despite there being many public witnesses as are visible in the CCTV footage, not a single statement from any of the public witnesses has been recorded nor any enquiry about the incident has been conducted. The recovery of cartridges was also not witnessed by public witnesses despite their presence. The alleged cartridges, pellets etc. were seized *vide* Seizure Memo dated 14.06.2018 but the Seizure Memo also mentions the



FIR number which was registered subsequently on 15.06.2018. The Seizure Memo itself creates a doubt on the story of the prosecution.

13. The Applicant was arrested on 15.06.2018 and there is no reason for him to abscond now. He undertakes not to tamper with the evidence or influence the witnesses and also to abide by the terms, which may be imposed by this Court. Furthermore, he is the sole earning member of his family comprising of his wife and two children, who were solely dependent upon the Applicant for their survival. His two children are presently studying; his elder son being a B.A. Final year student while younger son is a B.A. 1st year student. They both want to pursue MBA, for which funds need to be arranged by the Applicant.

14. It is, therefore, submitted that he may be granted Regular Bail.

15. Learned counsel on behalf of the Applicant, has placed reliance on judgements of this Court in Abhijeet Ghosh vs. State of NCT of Delhi & Anr., BAIL APPLN. 2407/2023, decided on 15.02.2024 and Urmila vs. Govt. of NCT of Delhi, BAIL APPLN. 4495/2024, decided on 10.01.2025 wherein bail on similar offences has been granted.

16. Further, reliance is placed on Praveen Rathore vs. State of Rajasthan, 2023 SCC OnLine SC 1268; Santosh Kumar Meena vs. State of Rajasthan, 2024 SCC OnLine SC 2732; Gobinder Singh @ Deepak @ Kali vs. State through SHO Kamla Nagar (Bail Application 1363/2024); Mohd. Ejaj vs. State of NCT of Delhi in Bail Application No. 1491/2024 dated 18.11.2024; Dheeraj vs. State (Bail Application No. 3052/2024) dated 16.10.2024; Deepak Tiwari vs. State of NCTD (2024 SCC OnLine Del 7810); Bhupender vs. State, 2024 SCC OnLine Del 6967; and Nikhil Rai Handa vs. State of



Delhi, 2024 SCC OnLine Del 3891 wherein Bail has been granted by various Courts due to long period of incarceration while awaiting trial.

17. Reliance has also been placed on Prasanta Kumar Sarkar vs. Ashis Chatterjee and Anr., 2010 SCC OnLine SC 1242 to state that factors to be considered at the time of bail include whether there is prima facie ground to believe that the accused had committed the offence; nature and gravity of offence; severity of punishment in the event of conviction; danger of accused absconding if bail is granted; character and standing of the accused; likelihood of offence being repeated; reasonable apprehension of the witness being influenced and danger of justice being thwarted if bail is granted.

18. It is submitted that irrespective of the nature of offence, he is entitled to bail as grounds of arrest were not given in writing for which reliance is placed on Prabir Purkayastha vs. State (NCT of Delhi), 2024 SCC OnLine SC 934 and Pankaj Bansal vs. Union of India, 2023 SCC OnLine SC 1244.

19. **Status Report has been filed on behalf of the State** wherein it is submitted that the Applicant and his associate, Attur Rehman Atwa are the main accused, who had fired gunshots due to which Sh. Krishan Bhadana, father of the Complainant had died while the Complainant, Sh. Manish suffered gunshot injury on his forearm. Furthermore, it is the Applicant who had called the co-accused Attur Rehman Atwa. The bullet was first fired by the Applicant and thereafter, he had handed over the firearm to co-accused Attur Rehman Atwa, who again fired, which led to the demise of Sh. Krishan Bhadana. It is further stated that out of 40 witnesses, 11 have already been examined.



20. The Bail is strongly opposed, considering the heinousness of the crime.

21. Submissions heard and the record perused.

22. The allegations against the Applicant are that he along with the other co-accused persons, gave beatings to the Complainant and his family members by giving fist blows, *danda* blows and by pelting stones. Eventually, the Applicant fired at the Complainant Manish, who suffered bullet injury on his forearm. In the meanwhile, the Applicant called Attur Rehman Atwa and handed over his fire arm to him, who in turn shot at his father, Sh. Krishan Bhadana, who suffered injuries on his chest and subsequently died.

23. There are serious charges of Section 302/307/34 of the IPC, against the Applicant. Considering his defined role, he cannot claim parity with the co-accused persons, who have been granted bail as the role ascribed to them is essentially of pelting stones and giving blows. His role as similar to that of Attur Rehman Atwa, who is also in custody.

24. Much has been stated in regard to the CCTV footage, but there can be no isolated reference to various shots of CCTV footage which can be considered comprehensively along with the other evidence. Insofar as the contradictions in the testimony of PW-2 are concerned, these alleged deviations from the main incident and contradiction, if any, can only be appreciated holistically while considering the entire prosecution evidence. At this stage of Bail, there can be no minute scrutiny into the credibility of the testimony of PW-2, who has supported the case of the prosecution.



25. Similarly, even though the weapon recovered may not match with the bullets, but the prosecution case, which is supported by the Medical Record, establishes that both the Complainant, Manish as well as his father, had suffered bullet injury; rather the father succumbed because of the bullet injury.

26. Furthermore, the Applicant has a prior history of involvement in FIR No. 362/2004 under Section 325/34 of IPC, registered at Police Station Sangam Vihar.

27. The Applicant has placed reliance on judgements of the Apex Court in Praveen Rathore (supra); Santosh Kumar Meena (supra) and the judgements of Coordinate Benches of this Court in Abhijeet Ghosh (supra); Gobinder Singh @ Deepak (supra); Mohd. Ejaj (supra); Deepak Tiwari (supra); Bhupender (supra) and Nikhil Rai Handa (supra) which are distinguishable and do not aid their case in light of the totality of circumstances and the role of the Applicant/accused.

28. Further, the Applicant has placed reliance on Prabir Purkayastha (supra) and Pankaj Bansal (supra) to support the proposition that an accused is entitled to bail if grounds of arrest are not given to him in writing, though this again is not supported by the record.

29. The Charge-Sheet stands filed in September, 2018 and the prosecution witnesses are in the process of being recorded. At this stage, it cannot be held that the trial is not progressing entitling the Applicant to Bail, on this sole ground.

30. Considering all the factors and the gravity of offence, there is no case made out for grant of Bail and the Bail Application is hereby dismissed.



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31. The Bail Application is disposed of accordingly along with the pending Applications, if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 30, 2025/RS