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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 05.10.2026

CNR No. DLHC010265602026

+ CRL.M.C. 4426/2026 & Crl.M.A.18279/2026

PRATEEK GULATI

.....Petitioner

Through: Mr. Rakesh Malhotra and Mr. Taksh
Suri, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Priyanka Dalal, APP for the State
with ACP K. Sapra.Mr. Varun D., Mr. Siddharth S.
Yadav and Mr. Rahul, Advocates for
R2.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition has been filed by the petitioner, assailing the order dated 19.06.2026 passed by the learned vacation judge/ district judge, commercial court -08, Central District, Tis Hazari Courts, Delhi, whereby regular bail has been granted to the respondent no.2. The said proceedings emanate from FIR No. 1217/2025, registered at P.S. Karol Bagh under Section 103 (1) of the Bharatiya Nyaya Sanhita, 2023 ("BNS"). The prosecution is pending as Session Case No. 317/2026 before Tis Hazari courts, Delhi.

2. The alleged incident occurred on 15.10.2025 following a quarrel on the road. It is alleged by the prosecution that respondent no. 2 assaulted the



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petitioner/victim. During the course of the assault, the accused was specifically informed that the victim was suffering from a heart condition; nevertheless, the accused allegedly continued with the assault. It is further alleged that when the victim, along with his driver, attempted to leave the place of occurrence, respondent no. 2 intercepted and followed them and again assaulted the victim. The victim subsequently succumbed to his injuries and expired on 17.10.2025.

3. The prosecution relies upon the statements of the eyewitnesses as well as the medical reports pertaining to the victim. However, the order dated 19.06.2026, whereby respondent no. 2 was granted bail, does not advert to or consider these material aspects of the prosecution case. It is the specific case of the prosecution that the statement of the victim's driver is of considerable evidentiary significance, as he was a direct eyewitness to the entire sequence of events. He was also the person who had specifically informed and warned the assailant/accused about the victim's pre-existing heart condition. Further, he is stated to have witnessed the second episode of assault, when respondent no. 2 allegedly intercepted and followed the victim and thereafter assaulted him again.

4. Respondent no. 2 was arrested by the police on 16.10.2025. The chargesheet was thereafter filed on 10.01.2026. Prior thereto, the earlier bail applications preferred by respondent no. 2 had been rejected *vide* orders dated 01.11.2025 and thereafter on 07.04.2026 by the learned Trial Court.

5. The order dated 07.04.2026 specifically considered the alleged repeated assault, the gravity of the accusation, *prima facie* material, stage of proceedings and the fact that the public witnesses are yet to be examined. The relevant observations made in the order dated 07.04.2026 are



reproduced hereunder:

11. Consequently, in conspectus of the above and further keeping in view the nature and gravity of the offence; the fact that the proceedings in the present case are at an initial stages and charges are yet to be framed; public witnesses are to be examined; role and complicity of the applicant as well as the *prima facie* incriminating evidence brought on record against him; manner of commission of offence; as well as further considering the impact of the offence on the society, this Court does not deem it fit to grant bail to the applicant at this stage. Even otherwise, Ld. Counsel for the applicant has failed to

demonstrate any material change in circumstances ever since, the dismissal of applicant's last bail application vide order 01.11.2025. Apposite to lastly observe that though, this Court though holds highest regard for the judgment cited by the Ld. Counsel for the applicant, however, the same would not come to the aid and/or rescue of the applicant, as the facts and circumstances of the present case are clearly distinguishable. Needless to mention, the question of grant or refusal of bail depends upon a determination of several factors, which, ultimately depends upon the specific/unique facts and circumstances of each case before the Court.

12. Accordingly, the present application under Section 483 BNSS for regular bail *qua* the applicant Dhruv Sharma is *dismissed*.

13. It is clarified herein that the observations made in the present order are only limited for the purpose of deciding the present application of and would have no bearing on the factual matrix of the present case.

6. It is noticed that on 05.06.2026, the matter was adjourned by the Trial Court, inasmuch as the accused/defense sought an adjournment for



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addressing arguments on charge. The said order also records that the FSL Report had been received, and a supplementary charge sheet would be filed.

7. A bail application came to be subsequently filed during the summer vacation and came to be considered by another Bench (during summer vacations) and was allowed *vide* the impugned order dated 19.06.2026.

8. The respondent no.2 denies any intention to cause death. Learned counsel for the said respondent seriously disputes the nature of the injuries and also their causal connection with the death of the victim.

9. The learned counsel for the respondent no.2 also finds infirmities in the reporting of the incident as also the credibility of the driver's version. It is further suggested that the injuries on the chest could be explained by the procedure that the deceased was subjected to, for the purpose of resuscitation. It is also submitted that, at the time of release, the accused had already undergone eight months custody.

10. Learned APP for the State opposes the impugned order dated 19.06.2026 and supports the present application.

11. It is submitted that the grant of bail *vide* order dated 19.06.2026 was without any material change in circumstances *vis-à-vis* the detailed and elaborate findings rendered in the order dated 07.04.2026.

12. It is further submitted that the grant of bail at this stage is likely to prejudice the fairness of the trial, particularly when the charges are yet to be framed and the material eyewitnesses, including the victim's driver, are yet to be examined.

13. It is further submitted by the learned APP that given the nature and gravity of the crime, bail ought not to have been granted to the accused person *vide* order dated 19.06.2026.



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REASONING

14. The challenge to the legality of the original order granting bail is distinct from a prayer for cancellation of bail on the ground of any subsequent misconduct or supervening circumstances. In the present case, the Court is required to examine whether the discretion to grant bail was exercised judiciously, upon due consideration of the relevant material and circumstances available on record at the time of passing the order dated 19.06.2026.

15. In **Mahipal v. Rajesh Kumar**, (2020) 2 SCC 118, the Supreme Court has clearly held that test to adjudicate the correctness of an order granting bail is to determine whether the order granting bail is perverse, illegal or unjustified. The Court therein has observed as under:

*“16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted. In *Neeru Yadav v. State of U.P.* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527], the accused was granted bail by the High Court [*Mitthan Yadav v. State of U.P.*, 2014 SCC OnLine All 16031]. In an appeal against the order [*Mitthan Yadav v. State of U.P.*, 2014 SCC OnLine All 16031] of the High Court, a two-Judge Bench of this Court surveyed the precedent on the principles that guide the grant of bail. Dipak Misra, J. (as the learned Chief Justice then was) held : (*Neeru Yadav case* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527], SCC p. 513, para 12)*



“12. ... It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the Court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the Court.”

16. As such, the earlier rejection did not permanently foreclose a subsequent bail application. It did, however, require the subsequent application before the Court to address the reasons for previous refusal and identify the material change in circumstance or any fresh grounds which justified a different conclusion.

17. In this regard, reference may also be placed upon the judgment rendered by the Supreme Court in **Kalyan Chandra Sarkar v. Rajesh Ranjan**, (2005) 2 SCC 42, wherein the Court has observed as under:

“20. The decisions given by a superior forum, undoubtedly, are binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application. Therefore, we are not in agreement with the



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argument of learned counsel for the accused that in view of the guarantee conferred on a person under Article 21 of the Constitution, it is open to the aggrieved person to make successive bail applications even on a ground already rejected by the courts earlier, including the Apex Court of the country.”

18. The order dated 19.06.2026 neither engages with the material reasons recorded in the earlier order dated 07.04.2026, nor identifies any material change in circumstances warranting a departure from the findings recorded therein. Significantly, the investigation had already been completed and the charge sheet had been filed prior to the passing of the order dated 07.04.2026. Therefore, those circumstances could not, without any further explanation or identification of a subsequent change in circumstances, have been treated as a basis for reversing the earlier decision.

19. The reasons mentioned in the order dated 19.06.2026, as encapsulated in the said order are as under:

“The applicant/accused is in custody since 16.10.2025. The applicant/accused being a male only can look after her ailing mother in a better way. Therefore, without commenting upon the merits of the case and considering the totality of facts and circumstances, this court is of the view that the applicant deserves to be admitted to bail. Accordingly, the present bail application is allowed. The applicant/accused is admitted to regular bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the Ld. JMFC/Duty JMFC/Link JMFC concerned, subject to the following conditions:-

- a) The applicant shall not directly or indirectly contact, influence or intimidate any prosecution witnesses.*
- b) The applicant shall not tamper with the evidence.*
- c) The applicant will not misuse the liberty of bail and will not indulge in any illegal or criminal activity.*



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d) The applicant shall provide his mobile number and address to the IO and shall keep the same operational.

e) The applicant shall not leave India without prior permission of the Court.

Nothing stated herein shall tantamount to an expression of opinion on the merits of the case.

Application stands disposed of accordingly.

Copy of this order be sent to Jail Superintendent concerned for necessary information.”

20. The reasons stated above do not commend themselves to this Court. The period of custody and the stated hospitalisation of the respondent no.2's mother were, no doubt, circumstances which were required to be considered. However, the order does not explain why the additional period of custody or the said medical circumstance justified a departure from the earlier refusal of bail, prior to recording of statements of the crucial eyewitnesses including the driver, and despite the fact that the circumstances forming the basis of the earlier order continued to subsist.

21. As regards the medical condition of respondent no. 2's mother, the order does not assess the nature of the treatment required, the necessity of respondent no. 2's personal presence, or whether alternative arrangements for her care were available. The reasoning that respondent no. 2 could provide better care merely on account of his gender does not, by itself, constitute a legally relevant or sufficient basis for departing from the earlier order refusing bail. Thus, the order fails to identify any material change in circumstances sufficient to justify a different conclusion on the question of bail.

22. Importantly, the gravity of alleged offense also requires substantive



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consideration. The concern is not merely a serious offense being committed, but the specific allegation of repeated assault and persistence despite knowledge of the victim's cardiac vulnerability. Moreover, shockingly, there was renewed and continuous attack even when the victim attempted to leave and the same was allegedly, the cause of the death. These circumstances bear directly on nature of the accusation as regards the respondent no.2's alleged role.

23. The order dated 19.06.2026, does not evaluate this aspect of the matter at all, even though the earlier order dated 07.04.2026 dismissing the bail application, dwells upon the same at considerable length and attaches significant importance to the same.

24. It is submitted that the charges in the present matter are yet to be framed by the learned Trial Court. The proceedings have, therefore, not yet reached the stage at which the material eyewitnesses are examined and their testimony is tested through the process of trial, including cross-examination.

25. No doubt, this circumstance is not by itself a legal prohibition against bail, however, it is relevant to note that the refusal of bail *vide* order dated 07.04.2026, specifically referred to the initial stage of proceedings and the unexamined public witnesses. However, the subsequent grant of bail did not explain how these concerns have been addressed. This distinct concern relating to stage and conduct of the trial, was not at all taken into account while passing the impugned order dated 19.06.2026.

26. The position of the material eyewitnesses is a valid consideration. The order dated 07.04.2026 expressly noted that the public witnesses have not been examined. It is noticed that the driver's evidence would bear upon the disputed events in the present matter and should be recorded promptly with



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full opportunity of cross-examination.

27. The impugned order dated 19.06.2026 did not assess the unrecorded material evidence and the prosecution's stated concerns about vulnerability of the witnesses to influence. The standard condition against influencing witnesses would not dispense with the serious concern that has been expressed by the prosecution.

28. It is also noticed that the previous conviction/involvement report (appended as Annexure P-9 to the present petition) reveals the following incidents:

Previous Conviction/Involvement Report 170

is with reference to the query made from user 28092826 at 1:32 AM on dated: Monday, January 12, 2026. A search has been made on the basis of following name, parentage and address, as per involvement sheet given below:

This report is intended solely for reference by investigating officers and must be verified by the concerned police station. It is not to be submitted IN COURT OR TO ANY OTHER GOVERNMENT OFFICE OR AGENCY.

Search Parameters Entered by User

Search Name	Search Parentage	Search Add	Search Date&Time	Client IP Address
Dhruv Sharma	Sunil Sharma		Monday, January 12, 2026 1:32 AM	200.200.200.254

From Crime Criminal Information System

Arrest No. : 1171981
Full Name : DHRUV SHARMA
Father/Husband Name : SUNIL SHARMA
Address : H NO B-153 FATEH NAGAR DELHI

S.No.	Arrest No.	District	PS	FIR No / Year	Under Section	Status (Period/FineAmount)	Status Date
1	1171981	NORTH DIST	GULABI BAGH	0157 / 2017	279/337/304A IPC		

From Online Criminal Dossier

No Conviction and Involvement Found

From Criminal Attributes DataBase

No Conviction and Involvement Found

From Register No. 9(iii)

No Conviction and Involvement Found

From CAS DataBase

No Conviction and Involvement Found

Recommendation : In the absence of Ten Digit Prints/K Form/Search Slip of the suspects / accused, comparison cannot be done on bio-metrics and the report is prepared on the basis of name, parentage and address. Hence, for authentic report, biometric search is recommended.

29. Concededly, the report does not establish a conviction in the cited FIR, however, reference in the order dated 19.06.2026 of "clear



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antecedents” clearly seems to be belied by the said documents. The order dated 19.06.2026 does not make a reference to the aforesaid case at all.

30. Thus, on a totality of circumstances, viz. failure to address earlier refusal or identify and adequately assess material change, failure to evaluate the gravity of alleged conduct and the failure to consider the position of the material public witnesses, clearly brings out that the grant of bail to the accused was unjustified.

31. Apart from these aspects, it is also noticed that in the medical opinion obtained by the prosecution in May, 2026, as also referred to in the charge-sheet, it has been brought out that the cause of death was “*shock consequent upon blunt force impact trauma to chest*”.

32. It is further stated in the subsequent opinion provided in the medical legal report that all injuries are ante mortem in nature and produced by blunt force impact. This again is a relevant aspect which has been altogether overlooked in the impugned order.

33. Considering the circumstances, the petition is allowed. The order dated 19.06.2026 granting bail to the respondent no.2, is set aside.

34. The respondent no.2 shall surrender before the Trial Court within a period of 15 days from today. In case of default, the Trial Court shall take necessary steps to secure the presence of the accused. The Trial Court shall proceed expeditiously for consideration of charge in accordance with law and after hearing the parties.

35. The Trial Court shall endeavour to record the evidence of the eyewitnesses including their cross-examination, within a period of four weeks from the date of framing of charges (if any and in accordance with law) and, keeping in view the availability of the eyewitnesses. The



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Investigating Officer (IO) shall assist and facilitate the attendance of said witnesses.

36. The respondent no.2 is at liberty to file a fresh bail application upon recording of evidence of the eyewitnesses.

37. No observation of this Court shall influence the merits of the trial.

38. The present petition along with pending application, stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 5, 2026/at/ka/nb