



2026:DHC:8172



\$~7

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

%

Date of Decision: 22.09.2026# **CNR No. DLHC010187772026**+ **BAIL APPLN. 1680/2026**

AKSHAY KUMAR

.....Petitioner

Through: Mr. Suraj Prakash Sharma, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Ms. Sakshi Sachdeva, Adv. for the
complainant (VC).Ms. Priyanka Dalal, APP for the
State.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The applicant, by way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeks regular bail in FIR No. 34/2021 dated 23.01.2021, under Sections 302/34 IPC, registered at PS Mahendra Park, Delhi.
2. The applicant has been in custody since 23.01.2021, i.e., for about 5 years and 8 months. The earlier bail application of the applicant was dismissed by this Court *vide* order dated 25.07.2025.
3. It is the case of the prosecution that on 22.01.2021, at about 10:30 PM, in front of I-Block, DDA Market, Jahangirpuri, the applicant, along with three co-accused persons, in furtherance of their common intention, caused multiple injuries, including a head injury, to one Rahul, who



2026:DHC:8172



succumbed to his injuries on 23.01.2021. The incident is stated to have been captured in the footage of a CCTV camera installed by the PWD/Government of NCT of Delhi.

4. *Vide* order dated 20.04.2022, charges have been framed against all the four accused persons for the offence punishable under Sections 302/34 IPC.

5. Learned counsel for the applicant submits that there has been a significant change in circumstances after the previous bail application was dismissed on 25.07.2025. He submits that on 13.11.2025, PW-2 Beni Prasad, the complainant/alleged eyewitness, was cross-examined. His cross-examination reads as under:

draw the attention of witness towards accused Akshay. Heard. Allowed).

I have seen accused Akshay, who is present in the Court today. It is correct that accused Akshay was not present at the time of incident. It is wrong to suggest that I have been tutored by the police officials before my deposition in the present case.

xxxx by Sh. Suresh Tomar and Sh. Sarthak Tomar, Ld. Counsels for accused persons namely Manoj @ Bhaya and Manish @ Mannu.

I am unable to identify the case property i.e. DANDA, which was seized by police in the present case.

draw the attention of witness towards accused Akshay. Heard. Allowed).

I have seen accused Akshay, who is present in the Court today. It is correct that accused Akshay was not present at the time of incident. It is wrong to suggest that I have been tutored by the police officials before my deposition in the present case.

xxxx by Sh. Suresh Tomar and Sh. Sarthak Tomar, Ld. Counsels for accused persons namely Manoj @ Bhaya and Manish @ Mannu.

I am unable to identify the case property i.e. DANDA, which was seized by police in the present case.



2026:DHC:8172



in the Court or that as now, I have been won over by accused Akshay therefore, I have intentionally not identified him in the Court today.

XXXXXX by Sh. SP Sharma, Ld. Counsel for Accused Akshay.

I have come alone from my home in the Court today in a rickshaw.

XXXXXX by Sh. Suresh Tomar and Sh. Sarthak Tomar, Ld. Counsels for accused persons namely Manoj @ Bhaya and Manish @ Mannu.

Nil. Opportunity given.

Xxxx by Sh. D. K. Pandey, Ld. Counsel for accused Ankit.

Nil. Opportunity given.

in the Court or that as now, I have been won over by accused Akshay therefore, I have intentionally not identified him in the Court today.

XXXXXX by Sh. SP Sharma, Ld. Counsel for Accused Akshay.

I have come alone from my home in the Court today in a rickshaw.

XXXXXX by Sh. Suresh Tomar and Sh. Sarthak Tomar, Ld. Counsels for accused persons namely Manoj @ Bhaya and Manish @ Mannu.

Nil. Opportunity given.

Xxxx by Sh. D. K. Pandey, Ld. Counsel for accused Ankit.

Nil. Opportunity given.

6. As can be seen, PW-2 Beni Prasad has stated that no CCTV footage had been shown to him and that he could not identify the applicant. It is pointed out that, thereafter, several medical and police witnesses have also been examined on 11.04.2026, and that the witnesses who remain to be examined are formal witnesses and police officials.

7. Learned APP for the State opposes the present application on the ground that the applicant is clearly visible in the CCTV footage assaulting the deceased along with the co-accused persons. It is submitted that one of the eyewitnesses, i.e., PW-3 Amrik Singh, has clearly identified the applicant.



8. The weight to be attached to the CCTV footage and the testimony of the public witnesses is a matter of trial, and nothing in this order shall be taken as an assessment of the testimony of the eyewitnesses. However, what is relevant is that the testimony of all the public witnesses, including the complainant, has now been recorded. Thus, the apprehension that the applicant would influence the said witnesses no longer survives, as the remaining witnesses are only formal and official witnesses.

9. The applicant has been in custody for more than 5 years and 8 months, and there is no certainty as to the time that may be consumed in completing the trial.

10. The aforesaid circumstances, which have arisen after the dismissal of the earlier application for bail on 25.07.2025, constitutes a material change in circumstances, particularly since the said order had noted that material prosecution witnesses were yet to be examined. Balancing the gravity of the charge against the long period of incarceration and the stage of the trial, I am of the view that applicant deserves to be released on bail.

11. Accordingly, the applicant is admitted to regular bail on furnishing a bail bond in the sum of Rs.50,000/- with two sureties of the like amount, to the satisfaction of the Trial Court, and subject to the following conditions:

- a. The applicant shall not leave NCT of Delhi or travel out of the country, without prior permission of the Trial Court;
- b. The applicant shall deposit his original passport in the trial court.
- c. The applicant shall provide his permanent address to the trial court, as also the address where he will be residing during the pendency of the case. The applicant shall intimate the Investigating



2026:DHC:8172



Officer (IO), and file an affidavit before the Trial Court, regarding any change in his residential address;

d. The applicant shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;

e. 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;

f. The applicant shall appear before the Trial Court on each and every date of hearing;

12. The bail application is disposed of in terms of the above.

13. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application and shall neither influence the trial proceedings nor be construed as an expression of opinion on the merits of the case.

14. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

SACHIN DATTA, J

SEPTEMBER 22, 2026/at/sd