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

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Date of Decision: 01.10.2026# **CNR No. DLHC010194152026**+ **BAIL APPLN. 1720/2026**(3) **DHEERAJ TOOR**

.....Petitioner

Through: Mr. Laxit Kothari, Adv.

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondent

Through: Ms. Priyanka Dalal APP

CNR No. DLHC010198412026+ **BAIL APPLN. 1766/2026**(4) **SH. SAHIL**

.....Petitioner

Through: Mr. Ajay Sharma, Mr. Jatin Man, Mr.
Mohit Sharma, Mr. Akshat Sehrawat,
Advs.

versus

THE STATE (N.C.T. OF DELHI)

.....Respondent

Through: Ms. Priyanka Dalal APP

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. These applications have been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking regular bail in the case arising out of FIR No. 0058/2023 registered at P.S. Baba Haridas Nagar, Delhi, for the offences punishable under Sections 302/201/120B/34 of the Indian Penal Code, 1860 ('IPC'). Since both matters arise out of the same FIR, they are being taken up together.



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2. The applicants have remained in custody since 08.02.2023. The prosecution case pertains to the death of one Buntty @ Vicky on 04.02.2023. The investigation stands completed, the chargesheet has been filed, and the trial is stated to have progressed substantially. All the public witnesses are stated to have been examined.

3. The applicants rely upon (i) their prolonged incarceration; (ii) the evidence already recorded; and (iii) the bail granted to the co-accused, namely Anshul Antil, *vide* order dated 24.07.2025 passed by a Coordinate Bench of this Court in BAIL APPLN. 891/2025. The said order has been perused. It is noticed that bail was granted to Anshul Antil on account of the period of his custody, and also on account of the fact that a prosecution witness, namely Mr. Johrul Islam, the tea-seller who, as per the prosecution, had seen the accused persons leave with the deceased, had turned hostile and had not supported the case of the prosecution. It was also noticed that the trial would take some time to conclude.

4. Ms. Priyanka Dalal, learned APP for the State, refers to various circumstances pertaining to the present applicants, *inter alia*, the fact that, as per the FSL report, the DNA profile generated from certain clothing articles recovered at the instance of the applicants matches the DNA profile of the deceased.

5. To controvert the aforesaid submission, learned counsel for the applicants relies upon the judgment/order dated 19.06.2025 passed by the Supreme Court in ***State of Rajasthan v. Hanuman***, Criminal Appeal No. 631 of 2017, wherein it has been observed as under:-



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6. We find that the incriminating circumstances relied upon by the prosecution, i.e., the motive and the recovery of the blood stained weapon, even taken in conjunction cannot constitute the complete chain of incriminating circumstances required to bring home the charges against the accused. The High Court seems to have overlooked the FSL report which fact was stressed upon by learned counsel for the appellant. However, in our view, even if the FSL report is taken into account, then also, other than the fact that the weapon recovered at the instance of the accused tested positive for the same blood group as that of the deceased (B +ve), nothing much turns on the said report.

7. This Court in the case of **Raja Naykar v. State of Chhattisgarh** (2024) 3 SCC 481 held that mere recovery of a blood-stained weapon even bearing the same blood group of the victim would not be sufficient to prove the charge of murder.

8. So far as the theory of motive is concerned, the evidence in that regard seems to be very vague and vacillating.

9. Law is well settled by a catena of decisions of this Court that in an appeal against acquittal, interference can only be made if the only possible view based on the evidence points to the guilt of the accused and rules out his innocence. In the present case, we are duly satisfied that the prosecution failed to lead clinching evidence to bring home the charges. The only possible view is the one taken by the High Court, i.e., the innocence of the accused.

6. On the strength of the above ruling of the Supreme Court, it is submitted that the recovery of blood-stained clothes cannot be treated as sufficient to prove the charge against the applicants



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7. It is noticed that *vide* order dated 25.08.2026, it was recorded as under:-

“2. Learned Addl. P.P. for State/ R-1 states that Mr. Ranjeet could not examined on the last date of hearing and now he has been summoned for 29.09.2026. She, on instructions from concerned IO, assures that on said date, the aforesaid material witness would be produced before the learned Trial Court and prays that the present bail applications be considered after his examination is over”.

8. Today, it is informed that Mr. Ranjeet Singh, the owner of the mobile shop to which the mobile phones of the applicants were allegedly sold, has been dropped by the prosecution since he is untraceable. As such, his examination is no longer awaited.

9. The applicants have now undergone more than three years and seven months of incarceration. Substantial prosecution evidence has already been recorded. The circumstances concerning the progress of the trial and the evidence already recorded, which informed the grant of bail to the co-accused, Anshul Antil, are relevant to the present applications as well.

10. The considerations relevant to bail, particularly where the accused is charged with a serious offence, have been delineated by the Supreme Court in ***State of Maharashtra v. Sitaram Popat Vetal***, (2004) 7 SCC 521. It was held that the order must indicate reasons for *prima facie* concluding why bail is being granted, and that the Court must consider, among other circumstances, (i) the nature of the accusation, the severity of punishment in case of conviction and the nature of the supporting evidence; (ii) reasonable apprehension of tampering with the witnesses or of threat to the complainant; and (iii) *prima facie* satisfaction of the Court in support of the charge. It was also observed that, though criminal antecedents are not always determinative of the question whether bail is to be granted, their



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relevance cannot be totally ignored.

11. In **Gurcharan Singh v. State (Delhi Admn.)**, (1978) 1 SCC 118, the Supreme Court, while dealing with the power of the High Court and the Court of Session under Section 439(1) of the Code of Criminal Procedure, 1973 ('CrPC') (corresponding to Section 483 of the BNSS), noticed that there is no bar to the grant of bail to persons accused of an offence punishable with death or imprisonment for life, and observed as under:-

"24. ... The overriding considerations in granting bail to which we adverted to earlier and which are common both in the case of Section 437(1) and Section 439(1) CrPC of the new Code are the nature and gravity of the circumstances in which the offence is committed; the position and the status of the accused with reference to the victim and the witnesses; the likelihood, of the accused fleeing from justice; of repeating the offence; of jeopardising his own life being faced with a grim prospect of possible conviction in the case; of tampering with witnesses; the history of the case as well as of its investigation and other relevant grounds which, in view of so many valuable factors, cannot be exhaustively set out."

12. These factors have to be weighed against the well-settled position reiterated by the Supreme Court in **State of Rajasthan v. Balchand**, (1977) 4 SCC 308, that *"the basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like"*.

13. The offence under Section 302 of the IPC is also, undoubtedly, grave and serious. However, in **Prabhakar Tewari v. State of U.P.**, (2020) 11 SCC 648, the Supreme Court, while sustaining an order granting bail in a case under Section 302 of the IPC, observed:-

"7. ... The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These



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factors by themselves cannot be the basis for refusal of prayer for bail. ...”

14. Further, pre-trial incarceration cannot be given a punitive character. In **Sanjay Chandra v. CBI**, (2012) 1 SCC 40, the Supreme Court observed as under:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

15. In **Zahur Haider Zaidi v. CBI**, (2019) 20 SCC 404, the Supreme Court granted bail to an accused facing a charge under Section 302 of the IPC, taking into account the allegations, the period of custody suffered (19 months) and the likely time to be taken for completion of the trial. It was further observed that bail ought not to be denied merely on an apprehension that the accused may influence witnesses since, in the event of any such conduct, the prosecution can always approach the competent court for cancellation of bail.

16. Having considered the totality of the circumstances, including the prolonged custody, the stage of the trial and the release of the co-accused on bail, and in light of the principles noted above, this Court is inclined to grant bail to the present applicants.

17. Accordingly, the present applications are allowed.

18. The applicants, namely Dheeraj Toor and Sahil, be released on regular bail, each on furnishing a bail bond in the sum of Rs. 25,000/- with one



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surety of the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions, that must be satisfied by each of the applicants:-

- i. The applicant/accused shall not leave the country without prior permission of the Trial Court;
- ii. The applicant/accused shall provide his permanent address to the learned Trial Court and also the address where he will be residing during the pendency of the case;
- iii. The applicant/accused shall intimate the Investigating Officer (IO) of any change in his residential address and shall file an affidavit to that effect before the learned Trial Court;
- iv. The applicant/accused shall furnish his mobile number to the IO/Station House Officer (SHO) concerned, which shall be kept in working condition and switched on at all times. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;
- v. The applicant/accused shall report to the IO as and when called upon to do so;
- vi. The applicant/accused shall not, directly or indirectly, contact the complainant, any prosecution witness, and their family members;
- vii. The applicant/accused 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 in the case in any manner whatsoever;
- viii. The applicant/accused shall appear before the learned Trial



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Court on each and every date of hearing;

- ix. The applicant/accused shall not indulge in any criminal activity during the period of bail; and
 - x. The applicant/accused shall report to the concerned SHO, on the first Monday of every month at 11:00 a.m. and be discharged by 01:00 p.m., after his presence has been recorded and the necessary formalities have been completed.
19. If any of the above conditions is breached, it shall be open to the State to seek cancellation of bail.
20. Both the applications are disposed of in the above terms.
21. The learned Trial Court is requested to expedite the trial proceedings to the extent feasible.
22. It is clarified that the observations made herein are solely for the purpose of deciding the present bail applications and shall neither influence the trial proceedings nor be construed as an expression of opinion of this Court on the merits of the case.
23. A copy of this order be communicated electronically to the concerned Jail Superintendent for information and necessary compliance.

SACHIN DATTA, J

OCTOBER 1, 2026/*uk,sd*