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

% ***Date of Decision: 28.10.2026***

\# **CNR No. DLHC010179332026**

\+ **BAIL APPLN. 1621/2026**

RAJESH KUMAR .....Petitioner

Through: Mr. Vikas Sharma, Mr. Yogesh Aggarwal, Ms. Manvi, Advocates.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Utkash, APP for the State.
Mr. Rahul Vats, Mr. Rohit Singh and Ms. Aastha, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking regular bail for the applicant/ Rajesh Kumar, in the case arising out of FIR No. 35/2026, registered under Sections 105/238(b)/61(2)/3(5)/340(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS), at P.S. Janakpuri.

2. The prosecution case, in brief, is that, on 06.02.2026, a young motorcyclist fell into an unbarricaded pit excavated for sewer-line work on Professor Jogender Singh Marg, Janakpuri and lost his life. The said work had allegedly been sublet by M/s KK SPUN Indian Ltd. to the petitioner's firm, M/s Trimurti Associates.

3. According to the prosecution, the said site was without any warning

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signs or reflectors, board and light in place. It is alleged that the applicant upon being informed of the incident came at the site and installed safety nets between the barricades and pit to cover and hide their mistakes.

4. The applicant/ Rajesh Kumar was arrested on 07.02.2026. The first application for bail filed by the applicant before this Court was dismissed on 24.02.2026, as the investigation was at an initial stage and the co-accused persons are yet to be arrested. The charge-sheet was filed on 07.04.2026. It is submitted that 27 witnesses are to be examined.

5. Co-accused Kavish Gupta and Himanshu Gupta are directors of M/s KK Spun India Ltd., the main contractor which sub-let work to the applicant's firm. Co-accused Nalin Kant is the General Manager of M/s KK Spun India Ltd. Though the powers of the directors stood suspended in July 2025 on account of insolvency proceedings, the prosecution alleges that they continued to be involved in the day-to-day operations of the company. Himanshu Gupta was charge-sheeted along with the applicant. Significantly, *vide* order dated 27.07.2026 passed in SLP (Crl.) 3836/2026, the Supreme Court made absolute the protection granted to the co-accused Kavish Gupta, Himanshu Gupta and Mr. Nalin Kant. Himanshu Gupta, who had been arrested on 10.03.2026, thus stands enlarged on bail.

6. *Vide* order dated 30.09.2026 passed in the present proceedings, this Court directed the State to file a Status Report, *inter alia*, on the plea of parity. The same has not been filed.

7. Learned counsel for the applicant submits that the circumstances have changed since the earlier rejection of bail, inasmuch as the charge-sheet has been filed in the present case. It is also submitted that a supplementary charge-sheet has also been filed, in which it has been brought out that the

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deceased was found to have consumed a significant amount of alcohol.

8. Learned APP for the State vehemently opposes the present application submitting that a young life was lost for want of elementary safety measures. He also submits that the applicant tried to conceal the lapse in the aftermath of the incident, instead of taking appropriate measures to safeguard the life of the deceased person.

9. I have considered the rival contentions of the parties.

10. The legal position is well-settled to effect that *"bail is the rule and jail is the exception"*. Reference is made to the judgment rendered by the Supreme Court in ***State of Rajasthan v. Balchand***, (1977) 4 SCC 308, wherein the Court held as under:

> *"**2.** 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, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative."*

11. Insofar as the present application is a successive application for bail, in ***Kalyan Chandra Sarkar v. Rajesh Ranjan***, (2005) 2 SCC 42, the Supreme Court held 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 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*

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on a ground already rejected by the courts earlier, including the Apex Court of the country."

12. The present application is based on a material change in the circumstances, *vis-a-vis* the first bail application. It is noted that the charge sheet has since been filed, and the co-accused have either been arrested and enlarged on bail or granted protection from arrest by the Supreme Court.

13. In the conspectus of the facts and circumstances of the present case, the following aspects weigh with this Court:

(i) the charge-sheet has been filed and the applicant's custody is no longer required for investigation;

(ii) the applicant has been in custody for more than 8 months, and the trial will take time to conclude since there are 27 witnesses to be examined;

(iii) the evidence is largely documentary and in the form of CCTV footage and call detail records, which have already been collected;

(iv) the supplementary charge-sheet records that the deceased had consumed a significant amount of alcohol which may bear on the issue of causation and on the culpability attributable to the applicant. This is a matter which necessarily requires to be examined in the trial.

14. It is also pointed out that the Supreme Court has granted anticipatory bail to two co-accused persons and regular bail to one of the co-accused, who is the director of the main contractor.

15. In the circumstances, the applicant is directed to be released on regular bail on furnishing personal bond of Rs.50,000/- with a surety of like amount, subject to the satisfaction of the learned trial Court. The same shall be subject to the following conditions:-

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i. The applicant in the aforesaid bail application shall continue to cooperate in the investigation and shall join the investigation as and when called upon by the Investigating Officer (I.O.);

ii. The applicant shall not leave NCT of Delhi or travel out of the country without prior permission of the learned trial Court;

iii. The applicant shall not directly or indirectly contact, threaten or influence the complainant, family of the deceased or any witness, or tamper with any evidence;

iv. The applicant shall appear before the learned trial Court on every date of hearing.

16. The Bail application is allowed in the above terms.

17. Nothing in this order shall be construed as an expression of opinion on the merits of the case.

18. In case of breach of any of the aforesaid conditions, the State is at liberty to seek cancellation of the bail.

SACHIN DATTA, J

OCTOBER 28, 2026/*at/ka*

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