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

CNR No. DLHC011049382025

+ **BAIL APPLN. 4963/2025**

VIKASPetitioner

Through: **Ms. Babita Singh, Advocate.**

versus

STATE GOVT OF NCT OF DELHIRespondent

Through: **Ms. Shubhi Gupta, APP for State.
Insp. Deepak, PS Sonia Vihar.**

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CNR No. DLHC010068632026

+ **BAIL APPLN. 783/2026**

AARUSH @ BUNTYPetitioner

Through: **Mr. Counsel (*appearance not given*)**

versus

STATE NCT OF DELHIRespondent

Through: **Ms. Shubhi Gupta, APP for State.
Insp. Deepak, PS Sonia Vihar.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **13.08.2026**

1. The applications have bene filed by the applicants seeking for grant of



regular bails in connection with FIR No. 284/2020 for offences under Sections 302/34 and Sections 302/120-B/34 of the Indian Penal Code, 1860 (IPC) respectively and 25/27 of the Arms Act registered at Police Station Sonia Vihar.

2. Learned counsel appearing for the applicants submits that the applicants are innocent and have been falsely implicated in the present case. It is submitted that the bail application of one of the applicants, namely Vikas, was earlier rejected on merits by this Court. However, thereafter, the applicant has undergone further incarceration and there is no likelihood of early conclusion of the trial. Learned counsel for the applicants further submits that both the applicants have already undergone about six years of incarceration.

3. With respect to the pending criminal cases, it is submitted that applicant Vikas has two cases pending against him, one under the Excise Act and the other involving an offence under Section 307 and other allied offences. In both the said cases, the applicant is stated to be on bail. As regards the other applicant, namely, Aarush @ Bunty, it is submitted that a case under Section 379 and other offences is pending against him, in which he is also on bail.

4. In sum and substance, learned counsel for the applicants submits that the pendency of cases in which the applicants are already on bail ought not, by itself, to operate as a ground to deny them the benefit of their right to a speedy trial in the present case. It is further submitted that one of the accused, namely Arun, has already been enlarged on regular bail by this Court. The applicants, therefore, pray for grant of regular bail.

5. Ms. Shubhi Gupta, learned APP for the State, opposes the



applications. She submits that the weapon of offence, “desi katta” was recovered at the instance of applicant Vikas and other co-accused Ajay @ Satveer and that the ballistic report establishes that the gunshot injuries were caused by the said weapon. As regards applicant Aarush @ Bunty, it is submitted that a surgical blade allegedly used in the commission of the offence was recovered at his instance and that he is also alleged to have been part of the conspiracy to eliminate the deceased.

6. With regard to co-accused Arun, learned APP submits that the applicants cannot claim parity with him, as the role attributed to Arun was limited to his presence at the time of the incident and no overt act was attributed to him. It is further submitted that the allegations against the applicants are serious in nature and, therefore, they are not entitled to be enlarged on bail.

7. The Investigating Officer (IO) submits that, pursuant to the order passed by this Court, the family of the deceased was informed; however, none has appeared.

8. I have considered the submissions made by learned counsel for the parties and have perused the record.

9. As per the testimony of PW-1 Vikas Bhati @ Vicky, who is stated to be an eyewitness and the brother of the deceased, it has come on record that at the time of incident i.e. on 15.08.2020, he along with his friend Sonu was eating Chowmein at Angel Fast Food in front of his house situated at Sonia Vihar. In the meanwhile, he heard the sound “Vicky Bhai Bachao”. On hearing this, he along with his friend Sonu Pal moved forward for about 15-20 steps. He saw that accused Vikas and Aarush @ Bunty were giving beating to his brother Dinesh Bhati. In the meanwhile, Ajay @ Satveer hit



the head of his brother Dinesh Bhati with a brick, due to which he fell down. During the said quarrel, accused Akash took out a country made pistol (*desi katta*) tucked in the waist of his pants and fired upon his brother. Accused Akash loaded it 2-3 times and fired multiple times. Accused Arun, brother of accused Akash, was also present there. For the sake of clarity paragraph no.2 of the testimony is extracted as under:

“2. On 15.08.2020 at about 10.15 PM, I along with my friend Sonu Pal S/o. Sh Omkar was eating Chowmein at Angel Fast Food in front of my house situated at Sonia Vihar. In the meanwhile, I heard sound "Vickey Bhai Bocho". On hearing this, I along with my friend Sonu Pal moved forward for about 15-20 steps. I saw that accused Vikash and Arush @ Bunty were giving beatings to my brother Dinesh Bhati. In the meanwhile, Ajay @ Satveer hit with brick on the head of my brother Dinesh Bhati due to which he fell down. During that quarrel, accused Akash took out a katta tucked in the waist of his pants and fired upon my brother. Accused Akash loaded it 2-3 times and fired many times. Accused Arun (brother of accused Akash) was also present there.”

10. It would, thus, transpire that the gunshot injury was caused by accused Akash. Out of the five accused persons, except Arun, all are in custody. The applicants herein have already undergone about six years of incarceration. Thus, on a *prima facie* perusal of the testimony of PW-1, there does not appear to be any overt act attributed to the present applicants. The cause of death is primarily attributable to the gunshot injury.

11. As pointed out by learned counsel for applicants, the earlier bail application preferred by the applicant was dismissed on merits by this Court *vide* order dated 25.04.2024. It is, however, well settled in **Kalyan Chandra Sarkar v. Rajesh Ranjan**,¹ that while successive bail applications are maintainable, the Court is required to consider the reasons for which the earlier application was disposed of and to examine whether any subsequent



circumstances justify taking a different view.

12. In the present case, there has been a material change in circumstances since the rejection of the earlier bail application. At that stage, 7 prosecution witnesses had been examined, whereas, despite the passage of almost 2 years and 4 months, only 10 witnesses have been examined till date. Further, the examination-in-chief of 3 witnesses has been deferred and remains to be recorded. Thus, the trial has progressed at a very slow pace and there is no likelihood of its conclusion in the near future. The aforesaid delay in the progress of the trial, having occurred subsequent to the rejection of the earlier bail application, constitutes a supervening circumstance warranting reconsideration of the applicant's prayer for bail.

13. Having found that fresh circumstances have arisen after the disposal of the earlier bail application, this Court finds that the trial has not progressed at the pace expected, despite the passage of considerable time. The applicants have, by now, undergone about six years of incarceration, while the trial is still pending. The continued incarceration of the applicants, coupled with the slow progress of the trial and the absence of any likelihood of its early conclusion, constitutes a relevant change in circumstances warranting reconsideration of the present applications.

14. Supreme Court, in **Satender Kumar Antil v. CBI**,² has emphasised that prolonged incarceration pending trial, particularly where the trial is not likely to conclude within a reasonable period, has to be viewed in the light of the guarantee of personal liberty under Article 21 of the Constitution.

¹ (2004) 7 SCC 528

² (2022) 10 SCC 51



15. The Supreme Court in ***Union of India v. K.A. Najeeb***,³ held that an under trial cannot be subjected to indefinite incarceration pending trial and that, where it becomes evident that a timely conclusion of the trial is not possible and the accused has already undergone a substantial period of incarceration, constitutional Courts would ordinarily be obligated to enlarge the accused on bail, notwithstanding the statutory restrictions governing the grant of bail.

“15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Under trial Prisoners) v. Union of India, it was held that under trials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge them on bail.”

[Emphasis Supplied]

16. Even otherwise it is trite that the object of bail is not to inflict punishment by way of pre-trial detention. In ***Dataram Singh v. State of U.P.***,⁴ the Supreme Court reiterated that the presumption of innocence remains in favour of the accused and that bail is the rule, while in ***Prasanta Kumar Sarkar v. Ashis Chatterjee***,⁵ the Court delineated the relevant considerations which must guide the exercise of discretion in matters of bail.

³ (2021) 3 SCC 713

⁴ (2018) 3 SCC 22

⁵ (2010) 14 SCC 496



The same principle was reiterated in *Sanjay Chandra v. CBI*,⁶ wherein the Supreme Court emphasised that incarceration before conviction ought not to be punitive in character.

17. Division Bench of this Court aptly observed in *Mohd. Hakim v. State (NCT of Delhi)*,⁷ that the Court must play the role of a “*doctor*” rather than a “*coroner*”, by protecting the right to a speedy trial before it is rendered illusory by prolonged incarceration, instead of recognising its violation after the constitutional injury has become irreversible.

18. Applying the aforesaid principles to the facts of the present case, this Court finds that the applicants have already undergone about six years of incarceration. So far as the other cases reflected in the nominal rolls are concerned, the applicants are stated to be on bail in those cases. Bearing in mind the overall facts and circumstances of the case, the period of incarceration already undergone and the fact that, out of 24 witnesses, the evidence of only 10 witnesses has been completed, while the examination-in-chief of 3 witnesses has been deferred, this Court is of the considered opinion that the trial is likely to take considerable time to conclude.

19. Before proceeding further, this Court cannot lose sight of the rather unfortunate state of affairs reflected from the judicial record. Learned counsel appearing for the applicants has drawn the attention of this Court to the order dated 07.11.2025, which records that the IO remained non-cooperative and that the delay in the proceedings was primarily attributable to the investigating agency. It is borne out from the record that the IO remained absent on more than 20 occasions and appeared before the learned

⁶ (2012) 1 SCC 40

⁷ 2021 SCC OnLine Del 4623



Trial Court only once since the registration of the FIR. Such conduct is particularly disconcerting when viewed against the backdrop of the applicants having remained incarcerated for about six years and the trial having progressed at such a slow pace. The criminal justice system cannot countenance a situation where an accused continues to remain in custody for years while the proceedings are impeded by the repeated non-appearance of the IO. The relevant portion of the said order is extracted hereunder:

“PW4 and PW8 are present for their examination-in-chief. There are several case properties in this case and assistance of 10 is required. The witnesses are discharged unexamined today also.

IO/Inspector Hira Lal has appeared before this Court only once. On every date he sent requests. At present he is stated to be posted at PS Nihal Vihar due to which it seems that he is avoiding appearance before this Court, due to long distance but the same is no excuse. More than 20 times summons have been issued to him, he has not appeared during arguments on bail application even.

Let bailable warrant of the sum of Rs.5,000/- be issued against him with a surety of like amount returnable on the next date. .”

20. Having regard to the aforesaid, let a copy of this order be sent to the Commissioner of Police, Delhi, for sensitizing the IO's to ensure their timely cooperation in the expeditious conclusion of pending matters, particularly in cases where the accused have remained in custody for a considerable period.

21. Bearing in mind the overall facts and circumstances, including the period of incarceration of about six years already undergone by the applicants, the slow pace of the trial, the fact that only 10 out of 24 witnesses have been examined, the delay in conclusion of the trial not being attributable to the applicants, and the absence of any overt role attributed to the applicants in the testimony of PW-1, this Court is of the considered opinion that the applicants have made out a case for grant of regular bail.



22. Accordingly, the applicants are allowed to be released on regular bail on such terms and conditions as may be imposed by the learned Trial Court.

23. Nothing stated, hereinabove, shall be construed as an expression on the merits of the case. The observations made herein are confined solely to the adjudication of the present bail application. The Trial Court shall adjudicate the matter independently and in accordance with law, on the basis of the evidence adduced before it.

24. The application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 13, 2026

aks/S.A.