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

CNR No. DLHC010452372026

+ **BAIL APPLN. 3977/2026**

AJEET KUMAR

.....Petitioner

Through: Mr. Harsh Tikoo, Mr. Rohit Saroj and
Mr. Animesh Nagvanshi, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for State with
Insp. Madan Mohan and Insp. Ajay
Negi (IO), PS Ashok Vihar.
Mr. Pankaj Kumar, Mr. Neeraj
Kumar, Ms. Meenakshi Jha, Mr.
Manoj Kumar and Ms. Budh Priya
Gautam, Advs. for complainant.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER

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15.10.2026

1. Hybrid mode.

*“If you are neutral in situations of injustice, you have chosen
the side of the oppressor.”*

-Desmond Tutu.

2. This is an application moved under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as ‘BNSS’), seeking
grant of regular bail during the pendency of the case arising from FIR No.
199/2024 dated 26.05.2024, registered under Sections 302 & 34 of the
Indian Penal Code, 1860 (hereinafter referred to as the ‘IPC’), at Police
Station Ashok Vihar.



3. Learned counsel for the applicant has submitted that the applicant had no active role in the incident as he was a mere spectator having nothing to do with the actual assault. In these circumstances, even if Section 34 IPC is invoked, still the applicant cannot be held responsible for the murder or even aiding, abetting or assisting in it in any manner. He is in custody since 27.05.2024 and therefore, in these circumstances, the applicant deserves to be considered for bail. It is further informed by the learned counsel for the applicant that all the eye witnesses have been examined, therefore, there is no chance of influencing the witnesses so as to cause any damage to the prosecution's case.

4. Learned counsel for the applicant has placed reliance on the following judgments:

- i. ***Jag Narain Prasad vs. State of Bihar***, 1998 SCC (Crl.) 1346;
- ii. ***Charan Singh vs. State of Punjab and Lakha Singh vs. State of Punjab***, 1998 SCC (Cri) 687; and
- iii. ***Jaskiran Jeet Singh Deol vs. State of Punjab***, Criminal Appeal No. 4234 of 2026, decided on 21st September, 2026.

5. Learned APP, on the other hand, while contesting the application submitted that it was the applicant who exhorted the assailant, who incidentally happens to be his own son, who in-turn repeatedly and violently stabbed the deceased, who ultimately succumbed to the injuries. In this context, the evidence on record has also been relied upon, together with CCTV footage, which has been played in the Court, which reflects that the applicant was standing with the phone in his hand in front of his room/house and it can be seen that the applicant, after noticing the deceased nearby,



proceeded to say something to his son, who suddenly came out of the room with a knife and started stabbing the deceased. The victim was stabbed multiple times and the applicant is seen standing nonchalant and in a normal way, without reacting in any manner which a normal person otherwise would should have reacted in such a situation. He, despite witnessing the incident caused by his own son, did not try to intervene or save the victim nor did he stop or even attempted to stop his own son from taking such a drastic step. This is clearly contrary to normal human behavior and shows some sort of understanding between the present applicant and the prime accused. There was a motive with the applicant and his family including his son, especially since a girl from the family of the applicant had eloped with the nephew of the deceased. There was tension among the families on this count.

6. The judgment relied upon by learned counsel for the applicant **Jag Narain Prasad's** case (supra) is distinguishable inasmuch as it is not on the aspect of bail granted, rather talks about a situation post trial and conviction. Thus, the comprehensive evidence was there before the Court, whereas in the instant case, such a situation is not there as the trial is inconclusive. The same is the position with regard to the judgment in **Charan Singh's** case (supra), relied upon by learned counsel for the applicant. Rather, it goes contrary to the case and contention of the learned counsel for the applicant, where the Court came to the conclusion that both the accused A-1 and A-2 in that case, shared the common intention, based upon the facts of that case. The third judgment in **Jaskiran Jeet Singh Deol's** case (supra), relied upon by learned counsel for the applicant has no bearing on the facts of the present case and, therefore, the applicant cannot derive any advantage to his



cause.

7. To elucidate the scope and applicability of Section 34 IPC, reference may be made to the decision of the Apex Court in **Raju Pandurang Mahale v. State of Maharashtra**, (2004) 4 SCC 371, wherein the principles of joint liability and the evidentiary rule governing common intention were comprehensively explained. The relevant extract is reproduced below for clarity:

“16. Section 34 has been enacted on the principle of joint liability in the doing of a criminal act. The section is only a rule of evidence and does not create a substantive offence. The distinctive feature of the section is the element of participation in action. The liability of one person for an offence committed by another in the course of criminal act perpetrated by several persons arises under Section 34 if such criminal act is done in furtherance of a common intention of the persons who join in committing the crime. Direct proof of common intention is seldom available and, therefore, such intention can only be inferred from the circumstances appearing from the proved facts of the case and the proved circumstances. In order to bring home the charge of common intention, the prosecution has to establish by evidence, whether direct or circumstantial, that there was plan or meeting of minds of all the accused persons to commit the offence for which they are charged with the aid of Section 34, be it pre-arranged or on the spur of the moment; but it must necessarily be before the commission of the crime. The true concept of the section is that if two or more persons intentionally do an act jointly, the position in law is just the same as if each of them has done it individually by himself. As observed in Ashok Kumar v. State of Punjab [(1977) 1 SCC 746 : 1977 SCC (Cri) 177 : AIR 1977 SC 109] the existence of a common intention amongst the participants in a crime is the essential element for application of this section. It is not necessary that the acts of the several persons charged with commission of an offence jointly must be the same or identically similar. The acts may be different in character, but must have been actuated by one and the same common intention in order to attract the provision.

.....For applying Section 34 it is not necessary to show some overt act on the part of the accused.”



8. Further elucidation on the doctrinal foundation of “common intention” under Section 34 IPC was provided by the Supreme Court in ***Vasant alias Girish Akbarasab Sanavale and Another v. State of Karnataka***, 2025 SCC OnLine SC 337, where the Court clarified that the intention must be attributable to each member of the group, and presence coupled with a facilitating role constitutes participation. The judgment distinguished between active participation and mere presence, emphasizing the individual mental element within collective liability.

9. It can be stated that there is no universal application of any judgment on all the cases/situations as they vary from case to case and facts are the primary and determinative reasons, which invariably are unique and distinct.

10. With the advent of modern technology, devices such as CCTV, mobile phone have a role to play. Things have changed drastically and evidence not only comes from the mouth of the witnesses, but devices and digital documents also speak volumes. In the instant case, the CCTV footage clearly reflects, and is not disputed by learned counsel for the applicant, that petitioner was present at the scene. The movements, if noticed minutely, would reveal that the applicant had some sort of prior understanding with the assailant and the young man acted with the full approval of his father. The applicant is also seen muttering something before the assailant started the stabbing spree. All these cumulatively reflect that prosecution has rightly invoked Section 34 IPC and that the applicant cannot wash of his hands by claiming that he was merely present there and was not doing anything. At time, inaction and being a mute spectator is also equally blameworthy as the actions are. If you stand by and stare while wrong is done, you are not neutral-you are complicit.



11. Therefore, in these circumstances, the applicant cannot be considered for bail at this stage on the plea that he was not the actual assailant, rather, a mere spectator. The application is accordingly declined.

VIMAL KUMAR YADAV, J

OCTOBER 15, 2026/akc