

Bail Application No. 95/2025
in SC 49/2025
State Vs. Dewa & Anr.
FIR No.287/2024
PS Kishan Garh
U/s. 103(1)/109(1)/61(2)/3(5) BNS & 27/54/59 Arms Act

28.02.2025

This is 2nd bail application under Section 483 BNSS for seeking regular bail of the applicant Sanjay Mehlawat S/o Sh. Laxman Singh.

Present: Dr. Darvesh Yadav, Ld. Addl. PP for the State.
Sh. Praveen Singh, Ld.Counsel for the victim family has joined the court proceedings through VC.
Sh. L.N. Rao, Sh. Shivek Vyas and Sh. Aryan Rajpal, Ld. Counsels for the applicant/accused.
SI Dharmender Meena on behalf of IO.

1. Arguments on this application are heard. The case file, application and its reply are carefully perused.
2. Briefly stated, the present FIR was lodged on 27.10.2024 on the complaint of Sh. Saurabh Yadav with the allegations that on 26.10.2024 at about 3 pm, he along with his friends namely Yash @ Bhola, Kunal, Uday and Tushar were roaming in Kishangarh area on the scooties and at about 5 pm, they reached at Gaushala, Kishangarh to feed the cows. Meanwhile, three boys namely Anil, Kishan and Dewa who were associates of the applicant Sanjay Mehlawat came there and started firing on them. One bullet hit the complainant on his back due to which he fell. Thereafter, they all held his friend Yash @ Bhola, pushed him to the ground and gave multiple stab injuries with knife to him. Thereafter, all the said three boys ran away

from the spot. Due to said injuries, Yash @ Bhola became unconscious and blood was oozing from his body. He suspected that the applicant had provided the weapon of offence i.e. pistol and knife to them for commission of the present offence as due to old animosity, he was jealous of him.

3. During investigation, MLC of injured Yash and Saurabh were collected. In the MLC of injured Yash, the concerned doctor mentioned as follows 'Patient declared brought dead at 6:45 pm on 26.10.2024'. Whereas, the MLC of complainant Saurabh indicated that he sustained bullet injury on his upper back. After receipt of the said MLCs, the IO endorsed the said complaint to get the present FIR lodged u/s.103(1)/109(1)/61(2)/3(5) BNS & 27/54/59 Arms Act.

4. During investigation, CCTV footage of the cameras installed near the place of incident were analyzed and it was found that the alleged offence was committed by three CCLs i.e. 'Kishan', 'Anil Kumar' and 'Aman'. They were apprehended and on the instance of CCL Anil Kumar alleged pistol was recovered and CCL Aman and Kishan got recovered two knives. They disclosed about the involvement of the co-accused Dewa and the applicant Sanjay Mehlawat in commission of the present offence. They disclosed that immediately prior to the incident, co-accused Dewa called on the mobile phone of CCL Anil from his mobile phone and he made the applicant talk to CCL Anil. During the said telephonic conversation, the applicant instigated CCL Anil to commit the present offence. They further disclosed that they were working for the applicant and there was a personal dispute among the victim Yash @ Bhola and alleged persons. The co-

accused Dewa and the applicant were arrested in this case on 27.10.2024 on the allegations that they conspired with CCLs to commit the present offence of murder. The call detail records and location chart of their mobile phones were obtained and they were analyzed. As per the call detail records of the mobile phone of co-accused Dewa and CCL Anil, they had a telephonic conversation thrice i.e. for 41 seconds at 5:15 pm, for 222 seconds at 5:16 pm and 47 seconds at 5:23 pm immediately prior to the present offence of murder at 5:30 pm.

5. After completion of investigation charge-sheet was filed against two accused persons including the applicant u/s. 103(1)/109(1)/61(2)/3(5) BNS & 27/54/59 Arms Act and final police report was filed against the three CCLs before the concerned JJB under the said sections.

6. Ld. Counsel for the applicant submits that he has been falsely implicated in this case. He submits that he did not have any conversation with CCL 'A' through the mobile phone of the co-accused Dewa prior to the incident or any time prior to that. He has argued that the deceased and complainant used to work for him for feeding stray dogs but he left his job six months prior to the incident. Thereafter, he had no interaction with the deceased or the complainant and therefore, there was no occasion or motive for him to cause death of the deceased or to commit the present offence. He submits that at the time of incident, he was present at his house and he was sleeping on its first floor. The co-accused Dewa did not come to his house before the alleged incident and therefore, there was no occasion for him to use mobile phone of co-accused Dewa to instigate CCL 'A' for

commission of the present offence. He urged that the CCTV cameras installed at his house also corroborates his version. He submits that he does not know why the DVR of his cameras did not function / operate when it was produced in the court to ascertain the veracity of his said claim. He submits that the FSL / forensic expert may be able to retrieve the relevant data from the said DVR to establish his innocence. He submits that he has been falsely named in this FIR as co-accused Dewa and other CCLs were his employees. He was not even present at the spot of the alleged incident which has been verified by the IO by analyzing the CCTV footage and CDR of his mobile number. He submits that nothing incriminating was recovered from his possession. He submits that he has clean antecedents and deep roots in society. Therefore, his chances of fleeing from justice are negligible. The trial of the present case is likely to take considerable time. He is in custody for the last more than 04 moths. He submits that no fruitful purpose would be served by further curtailing his liberty. With these submissions, he has requested that applicant be released on bail.

7. On the other hand, Ld. Addl. PP for the State assisted by the IO has opposed the present application. He submits that the applicant has conspired with the co-accused persons to commit murder of the complainant and pursuant to the said conspiracy, they caused fatal stab injuries with a knife causing death of Yash @ Bhola. The call detail records and location chart of the mobile phone of the co-accused Dewa corroborates the version of the prosecution. He further submits that their offence entails severe punishment of death penalty or

life imprisonment. He further submits if released on bail, he may threaten the prosecution witnesses to dissuade them from telling truth in the court. Further, if released on bail, he may flee from justice contemplating the possibility of conviction in this case that may extend up to death penalty. With these submissions, he has sought dismissal of the present bail application.

8. As per prosecution, deceased was former employee of the applicant who had left his job about 06 months prior to the date of incident. It is the case of the prosecution that the applicant was not happy that he had left the job and he wanted him to return as his employee. Therefore, he was carrying a grudge against the deceased. Admittedly, the call detail records of the mobile of the applicant and the deceased indicate that they did not interact even once for the last six months prior to the offence. If he was so keen that the deceased rejoin his employment he would have certainly contacted him at least once on phone. Further, the deceased did not have any expertise or specialization that his services for the applicant were indispensable. Thus, the theory of the prosecution regarding motive of the applicant for commission of the present offence seems to be improbable and doubtful.

9. Furthermore, admittedly, applicant did not play any overt act in commission of the present offence. The call purportedly led to instigation for commission of present offence was made from the mobile phone of the co-accused Dewa and not the applicant. There is no admissible evidence on record that the applicant conversed during the said three calls from the mobile phone of co-accused Dewa with the CCL Anil. The

alleged weapon of offence were neither recovered from the applicant nor they are in any manner connected with him. In absence of any conclusively believable motive for the applicant to conspire for committing the present offence of murder, the story of the prosecution qua the applicant is shrouded in reasonable suspicion.

10. The investigation in this case has already been concluded. The applicant is in custody for the last more than 04 months and he is no more required for investigation in this case. He has deep roots in the society and does not have any other similar criminal involvement. The trial of the present case is likely to take considerable time. No fruitful purpose would be served by further curtailing his liberty. In order to afford fair trial to the applicant, he must be given an opportunity to prepare for his defence and that would not be possible while being in custody. His chances of reformation and his future prospects may suffer a severe blow, if he is kept in the company of hardened criminals in the jail. Further, this court is conscious of the settled principle of bail that "Bail is rule and jail is an exception". The said sacrosanct principle is one of the crucial guiding factor for disposing off bail applications.

11. In the above facts and circumstances, the applicant **Sanjay Mehlawat** S/o Sh. Laxman Singh is admitted to bail on furnishing of personal bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one surety in the like amount subject to following conditions:-

- (i) He shall regularly appear before the Court during trial of the case;

- (ii) He shall not tamper with the evidence;
- (iii) He shall not contact the prosecution witnesses or their family members and shall not pressurize them, induce them or extend any kind of threat to them; and
- (iv) He shall convey his address to the Court and the SHO/IO concerned in case of its change.

12. It is clarified that nothing expressed herein shall tantamount to an expression of opinion on merits of the case.

13. The bail bond and surety bond are not furnished. The application is accordingly disposed off. The bail proceedings be annexed with the main file.

14. A copy of this order be sent to the concerned Jail Superintendent for intimation to the applicant.

15. As prayed, copy of this order be given *dasti* to the Id. Counsel for the applicant/accused.

(Dheeraj Mor)
ASJ-06/NDD/PHC
New Delhi:28.02.2025