

IA No. 37/2025
SC No. 417/2018
State Vs. Abid
FIR No. 375/2018
PS: Gokul Puri
U/s: 302/34 of IPC

03.02.2025

**ORDER ON APPLICATION FOR GRANT OF BAIL FILED
ON BEHALF OF THE APPLICANT/ACCUSED ABID**

1. This order of mine shall dispose of an application for bail filed by this applicant/accused Abid.
2. I have already heard the counsel for the applicant /accused and the Ld. Addl. Public Prosecutor for State.
3. Mohd. Farooq Ahmed, Ld. Counsel for the applicant /accused Abid submitted that the applicant/accused has been falsely implicated in the present case, whereas, he has not committed any offence, as alleged. He has no concern with the alleged incident and also submitted that the applicant/accused was arrested in the present case on 11.08.2018 on the basis of disclosure statement of co-accused and since then, he is in judicial custody.
4. Ld. Counsel for the applicant/accused further submitted that in the present case, till date, 14 witnesses have been examined and cross-examined and no public witness has deposed against the applicant/accused, even they did not support the prosecution story and also submitted that the final conclusion of the trial is likely to take a considerable time, as approximately 66 witnesses are yet to be examined and also submitted that the

main public witness Sadiq has not been served, despite giving several opportunities and also submitted that the FSL result also not supported the prosecution story.

5. Ld. Counsel for the applicant/accused further submitted that in the case in hand, the CCTV footage, relied upon by the prosecution was of the place, which was 100 meter away from the spot and submitted that the applicant/accused is running in judicial custody for about six years and during the said period, this applicant/accused was granted interim bail twice as per the guidelines of Hon'ble HPC and during the said period of interim bail, this applicant/accused did not misuse his liberty and he had timely surrendered before the jail authority. Moreover, no complaint of misusing the liberty of interim bail by the applicant/accused was received by any authority and also submitted that none of the prosecution witnesses, who has been examined till date, has stated anything against the applicant /accused, even including the family members of the deceased.

6. Ld. Counsel for the applicant/accused further submitted that the accused is permanent resident of Delhi, so, there is no chance of his absconding from the process of justice or tempering with the prosecution witnesses and also submitted that the applicant/accused is ready to abide by all the terms and conditions imposed upon him, if he is granted bail and prayed for grant of bail to this applicant/accused.

7. On the other hand, Sh. F. M. Ansari, Ld. Addl. PP for the State vehemently opposed the present application for grant of bail and submitted that this applicant/accused alongwith

the co-accused persons committed the murder of the deceased Neeta Pal and submitted that till date, out of total 66 witnesses, 15 witnesses have been examined and cross-examined and many public witnesses/material witnesses are yet to be examined and submitted that since, the applicant/accused alongwith the co-accused persons has committed the heinous offence of murder of the deceased.

8. Ld. Additional Public Prosecutor for the State further submitted that there is sufficient evidence against the applicant/accused to show that he with the help of other co-accused persons murdered deceased Neeta Pal @ Pooja to grab her flat and submitted that there are CCTV footage, wherein, the accused persons are clearly seen on the time, date and place of the incident and also evidence of the prosecution is going on and the public witnesses, including the complainant, who have been examined till date, have supported the case of the prosecution and about 42 witnesses are yet to be examined and cross-examined, so, there is possibility of hampering with the witnesses and tampering with the evidence and possibility of fleeing away from justice by this applicant/accused cannot be ruled out, if the applicant/accused is released on bail at this stage and prayed for dismissal of the present application.

9. As per the reply filed by the IO, CDRs of the mobile phones were obtained during the investigation and locations of the applicant/accused and other co-accused were found in the area of occurrence. Many public witnesses remain to be examined in the present case, so, there is possibility that the

applicant/accused may threaten or win over the other public witnesses, if enlarged on bail, or he may abscond.

10. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Additional Public Prosecutor for State and perused the record.

11. It is now well settled that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. In **Siddharam Satlingappa Mhetre v. State of Maharashtra, Criminal Appeal No.2271 of 2010**, the Hon'ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual's liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

“3. The society has a vital interest in grant or refusal of bail because every/criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.”

12. Apart from above, court has to keep in mind nature of accusation, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the

accused, circumstances which are peculiar to the accused involved in that crime.

13. The perusal of the record reveals that in the case in hand, this applicant/accused alongwith the co-accused persons is alleged to have committed murder of the deceased. Till date, only 15 witnesses have been examined, out of total 66 witnesses. All the public witnesses including the complainant, who have been examined in this case, have supported the case of the prosecution. 51 witnesses (including some public witnesses) are yet to be examined and cross-examined and in case, this applicant/accused is granted bail, he may flee away from justice. Possibility of hampering with the witnesses and tampering with the evidence also cannot be ruled out.

14. So, taking into consideration the nature of accusation, gravity of offences alleged to have been committed by this applicant/accused alongwith the co-accused and the fact that there is ample evidence on record, which prima facie shows involvement of the present applicant/accused in commission of the alleged offence and public witnesses/eyewitnesses are yet to be examined. It is further worth noticing that in the present case, some of the witnesses have alleged that they have been threatened on earlier occasion. Thus, no case is made out to admit the applicant /accused on bail.

15. In the above terms, the application for grant of bail filed by applicant/accused Abid stands **dismissed**. Dasti copy of order be provided to the parties.

16. Attested copy of this order be also sent to the Superintendent of Central Jail, concerned for supplying the same to this applicant/accused.

(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/03.02.2025