

IA 10/2025
SC 157/2017
STATE VS. RAHEES
FIR 75/2017
PS Khajuri Khash

18.08.2025

Present: Sh. Jitendra Sharma, Ld. Addl. PP for the State.
Ms. Ifat Sultana and Nadeem Hussain, Ld. Counsel for
applicant/accused Rahees.

This is an application filed on behalf of applicant/accused Rahees u/s 483 BNSS, 2023 seeking grant of regular bail.

While arguing on behalf of applicant/accused, it is submitted by Ld. Counsel for the applicant/accused that applicant/accused has been falsely implicated in the present case and is detained in JC since 18.02.2017. It is further argued that the case is still pending at the stage of prosecution evidence and number of prosecution witnesses are still left to be examined and there is no possibility of the trial being completed in the near future. It is argued that there is also a considerable delay in the disposal of the present case and as such there is a complete violation of the fundamental right of the accused under Article 21 of the Indian Constitution to get speedy trial of the case. It is stated that moreover, since all the public witnesses have already been examined and the case of the prosecution also does not disclose that it was the present accused only who had played the alleged main role in the incident in question, even otherwise, the accused deserves to be released on merits of the case. It is also submitted that since the accused has already undergone judicial custody for more than 8 years, he has already

undergone half of the maximum awardable punishment for the alleged offences and on that account also the accused deserves regular bail in the present case. Hence, it is prayed that the accused may be released on bail. Reliance is also placed on “Union of India Vs. K A Nazeeb” (2021) 3 SCC 713, “Hussainara Khatoon Vs. State of Bihar” AIR 1979 SC 1369 and “Supreme Court Legal Aid Committee Representing under trial prisoners Vs. Union of India and Ors.” JT 1994 (6) SC 544.

On the other hand while opposing the bail application, the Ld. Addl PP for the state has argued that in the present case, offence alleged against the accused are very serious in nature and he has been charged with the other accused persons for the commission of offences u/s 302/307/34. It is argued that moreover, as per the case of the prosecution, the present accused was the main accused who had initiated the attack and inflicted serious injuries on number of the complainants/victims including the deceased Sh. Mohd. Sayeed. It is stated that, moreover, during the prosecution evidence, all the public witnesses have fully supported the case of the prosecution and have deposed against all the accused persons including the present accused and there are high chances that the accused would be convicted for all the alleged offences on the conclusion of the trial.

It is argued that as far as the contention of Ld. Defense counsel that there is a considerable delay in the disposal of the case and there is a violation of fundamental right of accused to seek speedy trial, the said contention is also completely without any substance as there has been no failure on the part of the prosecution in conducting the examination of the witnesses in a speedy manner and only because there

was a lengthy examination of the witnesses and there were a number of public witnesses/eye witnesses relating to the incident, the trial has taken considerably more time in completion of the recording of the evidence of the witnesses, however, there is no deliberate delay on the part of the prosecution. It is further argued that similarly the mere fact that the accused is detained in JC for past 8 years also does not entitle him to be released on bail when allegations leveled against him are so serious in nature and one of the offence u/s 302 IPC provides for punishment with death penalty or life imprisonment and the period of 8 years of custody cannot be calculated as undergoing half of the punishment for the said offence. It is also submitted that further considering the gravity of alleged offences and entailing punishment there is also every possibility that the accused may threaten the remaining public witnesses or again commit the same offences upon the complainant/other public witnesses in order to take revenge and may also abscond from the process of justice. Hence, it is prayed that the present bail application filed on behalf of the applicant/accused may be dismissed.

Submission are heard from both the sides.

After hearing both the sides and going through the judicial record, the court also does not find any merits in the present bail application. Admittedly, the accused persons, including the present accused are being tried for the commission of offences u/s 302/307/34 IPC and one of the public witness who is also one of the injured of the incident is yet to be examined in the present case as his cross examination is yet to be done by the defense side. Further, it is also another admitted position as emerging from the court record that as per the case of the prosecution, it

was the present accused only who had initiated the attack and caused the injuries upon a number of complainants/victims including the deceased Sh. Mohd. Sayeed. To that extent, the contention of the Ld. Defense counsel that accused has no major role in the alleged incident, is completely devoid of any merits and accordingly stands rejected.

Further, as far as the contention of the Ld. Defense counsel that there is a considerable delay in the completion of the trial and the right of the accused to speedy trial is being violated, though, it is an admitted fact that the trial in the present case is pending since the year 2018, however, as emerging from the court record, it is also another factual position that there has been no deliberate failure on the part of the prosecution to record/complete the prosecution evidence. Indisputably, adjournments have been given on certain occasions during the course of trial, however, the same were given only on valid grounds and no material has also been placed on the record by the Ld. Defense counsel to fortify her submissions regarding deliberate failure or delay on the part of the prosecution to complete the prosecution evidence.

Likewise, though it is not disputed that the accused is detained in JC since the date of his arrest, however, the mere undergoing of a long period of incarceration also does not ipso facto entitles the accused to be released on bail when allegations leveled against him are so serious in nature and the prosecution also has a very strong prima facie case against him. Reliance is also placed on (i) “Neeraj Sehrawat @ Neeraj Bawaniya Vs. State NCT of Delhi” Bail Application no. 1203/2024, date of decision 15.01.2025, Hon’ble High Court of Delhi, (ii) “Ash Mohammad Vs. Shivraj Singh” (2012) 9 SCC 446, (iii) “Rajesh

Ranjan Yadav Vs. CBI” (2007) 1 SCC 70.

As far as the case laws relied upon by the ld. Defense counsel are concerned, the same are also of no help and can be deferred on the basis of their facts.

Accordingly, in view of the facts and circumstances of the case as emerging from the judicial record, the court does not deem it fit to release the accused on bail.

The bail application filed on behalf of accused accordingly stands dismissed and disposed off.

However it is clarified here that nothing stated herein shall tantamount to an opinion or expression of the court on the merits of the case.

Copy of order be given dasti to both the sides on request.

Copy of this order be also sent to Jail Superintendent for his information and office records.

(BALWINDER SINGH)
ASJ (FTC)/North-
East/KKD Courts/
Delhi/18.08.2025