

06.08.2025

Present: Sh. Vikas Singh-II, Ld. Addl. PP for State.
None for the applicant / accused.

1. This application u/s 483 BNSS has been moved seeking release of applicant / accused Himmat @ Sonu on regular bail.

2. Ld. Counsel for the applicant has submitted that no similar application is pending before any other court.

3. Reply filed. Copy supplied.

4. Brief facts of the case, as per reply of IO, are that on 04.02.2021, vide DD No. 107A, an information was received at PS Kanjhawala that one patient with bullet injuries was brought at MLS Cygnus Hospital, Rama Vihar and he was declared as brought dead. After receiving DD No.107A, ASI Rajender Singh alongwith Ct. Naveen immediately rushed to the hospital where hospital attendant identified deceased as his son Kulbir Mathur. Thereafter, ASI Rajender Singh alongwith Ct. Naveen reached the spot i.e. Main Karala to Begumpur Road, near Majri Mubarakpur, T-point crossing where one black colour Thar Jeep was found at the divider whose left side window glasses were broken and empty cartridges, bullet lead and broken pieces of glasses were scattered in and around Jeep. Crime team reached the spot and total 9 empty cartridges and 3 bullet lead were found scattered

on road and blood found on the road and a mobile phone with power bank and charging cable were also found. Dead body was preserved at mortuary of SGM hospital. Accordingly, as per recovery, MLC and inspection of scene of crime, case u/s 302 IPC & 25/27/54/59 Arms Act was registered. During course of investigation, accused persons namely Ajay @ Rathi, Sumit @ Jhumka @ Pankaj and Krishan @ Sultan were arrested. During police remand, they disclosed that, as per the direction given by Himmat @ Chiku and Sandeep @ Dhillu from Tihar Jail, he alongwith his associates namely Deepak @ Sonu, Rakesh @ Raka and Sumit @ Jhumka hatched a conspiracy to murder Kulbir @ Golu and on 04.02.2021, they had murdered Kulbir @ Golu by firing on him while he was driving his Thar Jeep. Thereafter, Sandeep @ Dhillu and Rakesh @ Raka were also arrested in the present case and sent to JC. After completion of investigation charge-sheet was filed.

5. Ld. Counsel for applicant / accused has argued on the line of bail application and submitted that applicant / accused has been falsely implicated in the present case. Ld. Counsel submits that there is not even a single incriminating admissible evidence i.e. circumstantial or ocular or CDR or IPDR on record which can even remotely connect the applicant / accused with the alleged offences. Ld. Counsel submits that applicant / accused was neither named in the FIR nor in any of the statement u/s 161 Cr.PC. Ld. Counsel submits that the prosecution has cited 67 witnesses and even after trial of more than 4 years, only 3 witnesses have been examined till date out of those 67 witnesses. Ld. Counsel submits that case of the prosecution is based upon two eye witnesses namely Abhishek and Rankaj Kumar wherein Rankaj Kumar

is yet to be examined. PW Rankaj Kumar has not been appearing despite service of summons on three occasions and is not turning up since last five dates. PW Rankaj Kumar is deliberately delaying the proceedings and applicant / accused cannot be subjected to any further judicial custody merely on account of non-examination of a witness who is not even adhering to the direction of Court. Ld. Counsel submits that PW Rankaj Kumar has neither made any 100 number call nor took the deceased to hospital nor he is witness to any memo or document nor the eye witness of the spot during initial days as stated in the charge-sheet. Even the statement of PW Rankaj Kumar u/s 161 Cr.PC was recorded after delay of almost three days.

6. Ld. Counsel submits that the case is setup by prosecution that applicant used a mobile phone while being in JC, conspired with co-accused persons and executed the alleged offence but nothing incriminating was recovered either from applicant or at his instance, even the mobile phone is neither in the name of applicant nor the owner of said mobile phone and the alleged mobile phone was recovered from co-accused Sandeep @ Dhillu. Ld. Counsel submits that applicant has no relation with any of the alleged gang and there is not even a single document on record to connect him with any gang. Ld. Counsel submits that applicant / accused was arrested on 29.04.2021 and he is in continuous incarceration for more than four years. The investigation is complete and charge-sheet has already been filed before the Court. The material witnesses have already been examined so there is no apprehension of tampering with the evidence or influencing the remaining formal witnesses. The trial will take a long time and no

purpose would be served by keeping the applicant / accused further in custody.

7. Ld. Additional PP for the State opposed the bail application on the ground accused is facing trial for commission of serious offence. Ld. Additional PP submits that he is the master-mind behind the murder of Kulbir @ Golu and he hatched a conspiracy with other accused persons and applicant/accused alongwith co-accused Sandeep @ Dhillu gave direction from Tihar Jail and in pursuant to the directions, other accused persons committed murder of the Kulbir Singh. It is submitted that applicant/accused is in judicial custody and he belongs to Sunil @ Tilu Gang and having enmity with Jitender Gogi and other gang. It is prayed that bail may be dismissed.

8. In rebuttal, Ld. Counsel for applicant/accused submits that there is no incriminating material against applicant/accused except disclosure statement of co-accused. It is submitted that the mobile phone which was allegedly use in the commission of offence was not recovered from the possession of present applicant and he has drawn attention on the seizure memo of mobile phone dated 13.10.2021 wherein it is mentioned that mobile phone was recovered from accused Sandeep @ Dhillu. It is further submitted that there was no possibility of hatching conspiracy with accused Sandeep @ Dhillu by applicant/accused as applicant/accused was in different jail number and he was not having communication access with the accused Sandeep @ Dhillu. Ld. Counsel brought attention on the arrest memo of applicant/accused and arrest memo of Sandeep @ Dhillu. As per arrest memo of applicant /

accused, he was in CJ-1, Tihar Jail Complex whereas accused Sandeep @ Dhillu was in CJ-03, Tihar Jail complex at the time of his arrest. Ld. Counsel for applicant/accused that involvement of the applicant/accused is based on assumption and there is no direct or indirect evidence to link him with co-accused Sandeep @ Dhillu in the commission of alleged offence.

9. Investigating Officer who joined the bail hearing through VC, fairly accepted that no phone was recovered from the applicant/accused and present applicant and co-accused Sandeep @Dhillu were lodged in different barracks at the relevant time.

10. Submissions heard. Record perused.

11. No doubt, applicant/accused is facing trial for commission of a heinous offence. The applicant/accused was in judicial custody in Tihar Jail at the time of commission of alleged offence. The case of prosecution against the prosecution is based on the fact that he alongwith co-accused Sandeep @ Dhillu gave directions to other accused person from jail using mobile phone to murder Kulbir @ Golu. Admittedly, the said phone was not recovered from the possession of applicant/accused. He was not lodged in the same jail number with co-accused Sandeep @ Dhillu from whose possession alleged recovery of mobile phone was effected. Therefore, Thus, except disclosure statement, no incriminating material appears to be surfaced during investigation against the accused. The applicant/accused is in custody

for more than 4 years. No purpose would be served by keeping him behind the bars considering his role in the alleged murder. **Application is accordingly allowed subject to condition of furnishing personal bond in sum of Rs. 25,000/- with surety in like amount.**

12. The applicant shall not approach any witness in any manner and shall appear on each and every date of hearing.

13. Observation made herein above shall not affect the merits of this case in any manner.

14. Application stands disposed off.

(MUNEESH GARG)
ASJ-03, N/W, ROHINI COURTS
DELHI/06.08.2025