

17.04.2025

Present: Sh. Vineet Dahiya, Ld. Addl. PP for the State.
Sh. Ashish Dahiya, ld. Chief LADC on behalf of
applicant/accused.

1. *This is an application under Section 439 Cr.P.C. for grant of bail, moved on behalf of applicant/accused Vivek Kumar @ Pankaj, received from jail.*

2. Reply to application received. Arguments heard.

3. Brief facts of the present case, as per prosecution, are that initially a DD No. 31 A dated 03.02.2020 was lodged at PS Sultanpuri regarding missing of one Pushpender @ Bunty which was marked to ASI Ashok Kumar. In the afternoon, Sh. Ram Ganesh, father of Pushpender @ Bunty informed ASI Ashok Kumar that he has received a ransom call from the mobile number of Pushpender @ Bunty and caller was demanding Rs. 15 lacs. Thereafter, the present FIR was got registered and investigation of the same was assigned to ATO. During investigation master Priyanshu @ Preet son of Pushpender @ Bunty informed the police that on 02.02.2020 at about 08:00 pm his father Pushpender @ Bunty called Mohd. Salim @ Saleem Abbas over telephone and left the home on his motorcycle to meet Mohd. Salim @ Saleem Abbas saying that he would return in one-one and an half hour but he did not return. Thereafter, Mohd. Salim was interrogated who disclosed the he alongwith Vivek Kumar and Pushpender @ Bunty were present in the room of Vivek and as per their plan, Vivek

Kumar hit the Pushpender @ Bunty with a gas cylinder due to which he fainted and Mohd. Salim slit the throat of Pushpender @ Bunty by using a knife/blade. After that they wrapped the dead body of Pushpender in a sheet and tied it with jute cord and cleaned the room. Vivek Kumar hid the motorcycle of Pushpender @ Bunty in the area of Rohini. It was Mohd. Salim who made ransom calls from the mobile number of Pushpender @ Bunty.

4. Contentions of Id. Counsel for applicant/accused are that applicant/accused is innocent and has been falsely implicated in the present case. Applicant/accused is a young boy of 25 years and is in JC since 26.11.2020. Nothing is recovered from or at instance of applicant/accused. Reliance has been placed on Satender Kumar Antil Vs. CBI.

5. Ld. Addl. PP has opposed the bail application stating that allegations against applicant/accused are very grave and murder of deceased was committed in a very planned manner. Applicant/accused is the one who hit the deceased with a gas cylinder and after committing the murder hid the motorcycle of deceased. It is further submitted that public witnesses are yet to be examined and there is every likelihood that applicant/accused may threaten the witnesses, if released on bail.

6. The role assigned to applicant/accused is that he alongwith co-accused murdered the deceased. Applicant/accused is the person who hit the deceased with a gas cylinder first and thereafter, co-accused slit the throat of deceased. Dead body of deceased was recovered from the room of applicant. Many public witnesses are yet to be examined. There is no change in circumstance except examination of one witness since dismissal of previous bail application.

7. In State of MP Vs. Kajad (2001) 7 SCC 673, Hon'ble Supreme Court laid that:

“8. it is true that successive bail application are permissible under the changed circumstances. But without the change in circumstances the second bail application would be deemed to be seeking review of earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; 2001 SCC CRI 113 and various other judgments.”

8. Considering the totality of facts and circumstances, gravity of offence and also the fact that the applicant/accused has actively participated in the commission of offence, I am not of the view to grant bail to applicant/accused. Hence, dismissed.

9. In view of the recommendations of Rules Committee under Section 523 of BNSS, 2023 with respect to the practice directions issued by Hon'be Supreme Court of India in Writ Petition no. W.P.(C) 1082/2022 Suhash Chakma Vs. Union of India & Ors., the applicant can avail the free legal aid facility from District Legal Services Authority (North-West) at Room No. 405, 4th Floor, District Court Rohini, Delhi-110085. Applicant may contact the authority on phone number 011-27555536 or through mail at e-mail ID northwest-dlsa@nic.in.

10. **Copy of this order be also sent to Jail Superintendent to inform the applicant/accused of his rights.**

**VIKRAM
ASJ-II/SPECIAL JUDGE NDPS/
NORTH-WEST/ROHINI COURTS/
DELHI/17.04.2025**