

Bail Matter (IA SC 575-2021)
State Vs. Deepak @ Motiya
FIR No. 214/2021
U/s 302/34 IPC & 25/27 Arms Act
PS Bharat Nagar

01.03.2025

Present: Ms. Yogita Kaushik, Ld. substitute Addl. PP for the State.
None for applicant/accused.

1. This is an application under Section 483 BNS for grant of bail, moved on behalf of applicant/accused Deepak @ Motiya.
2. Arguments have already been heard. Matter is listed for orders today.
3. Present FIR was registered on the statement of eye witness/brother of deceased who alleged that on 24.04.2021 when he was roaming on main road L Block, JJ Colony, Wazirpur, Delhi and reached at the corner of the gali, L Block park, he saw that his brother Rahul was caught hold by two boys and Deepak @ Motiya stabbed his brother with a knife in the chest.
4. Contentions of ld. Counsel for applicant/accused are that Pw-9 is a planted witness. As per charge sheet, Pw-9 and his brother (now deceased) came to his house alongwith one Aditya at around :8:30 pm but the said Aditya was never made a witness in the present case. Two witnesses namely Sunny and Sidharth @ Kannu have turned hostile. As per the allegations, deceased was caught hold by two persons and stabbed by applicant/accused. However, third one never brought in the charge

sheet. There is delay in registration of FIR and in seizure of clothes of deceased. Co-accused Manoj @ Devender has been granted bail by Hon'ble High Court of Delhi vide order dated 12.02.2025.

5. Reliance has been placed on following judgments:

(a) Sumer Singh Vs. State, 2007 SCC Online Del 1189;

(b) Shah Alam Vs. State Govt. (NCT of Delhi) N.C. no. 2023:DHC:41;

(c) Deepak Yadav Vs. State of UP (2022) 8 SCC 559;

(d) Prabhakar Tiwari Vs. State of UP (2020) 11 SCC 648;

(e) Maulana Mohd. Amirrashadi Vs. State of UP & Anr.;

(f) Arjangar Manigarbava Vs. State of Gujarat;

(g) Pravin Bhai Vs. State;

(h) Ketan Suresh Pawar Vs. Yuvraj Sandeep Sawant;

(i) Myakala Dharmarajam Vs. The State of Telangana;

(j) State of Rajasthan Vs. Bal Chand 1977 (4) SCC 308;

(k) Pardeep @ Namberdaar Vs. The State (Govt. of NCT of Delhi) Bail Appln. No. 257/2022;

(l) Umesh Alias Dhillu Vs. The State (Govt. of NCT of Delhi) Bail Appln. 2794/2023;

(m) Mohd. Haseeb Vs. The State (Govt. of NCT of Delhi) Bail Appln No. 1199/2024;

(n) Rahul @ Saka Vs. The State (Govt. of NCT of Delhi) Bail Appln. 2578/2024;

(o) Deepak Kumar @ Kaliya Vs. The State (Govt. of NCT of Delhi) Bail Appln No. 3562/2023;

(p) Sanju Rana Vs. The State (Govt. of NCT of Delhi) Bail Appln. No. 4194/2023;

(q) Dinesh Kumar Alias Ravinder Vs. The State Govt. of NCT of Delhi

Bail Appln 4081/2024.

6. On the other hand, Id. Addl. PP has opposed the bail application stating that allegations are very grave and applicant/accused is the person who stabbed the deceased. Pw-9 supported the case of prosecution. Therefore, application should not be allowed.

7. Contentions of Id. Counsel with respect the veracity of Pw-9 has already been considered in last bail dismissal order dated 21.11.2024. Pw-9 supported the case of prosecution. While granting bail to co-accused Manoj @ Devender, it was observed by Hon'ble High Court that co-accused Manoj is not person who stabbed the deceased with knife and he has clean antecedents. However, applicant/accused is the person who stabbed the deceased with knife and he has involvements in other cases also.

8. Recently Hon'ble Supreme Court of India in '**X' Vs. State of Rajasthan & Anr, Special Leave Petition (Criminal) No. 13378 of 2024**', held that

"14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commence and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, ie., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it come to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too f or no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

9. Considering the totality of facts and circumstances, gravity of offence and the role assigned to applicant/accused, I am not of the view to grant bail to applicant/accused. Hence, dismissed.

10. 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.

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**VIKRAM
ASJ-II/SPECIAL JUDGE NDPS/
NORTH-WEST/ROHINI COURTS/
DELHI/01.03.2025**