

**IN THE COURT OF MS. SURABHI SHARMA VATS, ASJ-04
(SHAHDARA), KARKARDOOMA COURTS, DELHISC**

No. 77/2025, IA No. 01/2025

State Vs. Nishu

FIR No. 554/2024

PS: Jagatpuri

U/s 103(1)/3(5) BNS

01.04.2025

This is an application under Section 483 BNSS seeking regular bail moved on behalf of applicant/accused Nishu.

Present: Sh. S.K. Dubey, Ld. Addl. P.P. for State.
Sh. V.S. Dubey, Ld. Counsel for the accused/
applicant.
IO/SI Animesh Anand is present in person.

Reply filed by IO. Copy supplied to Ld. Counsel for the applicant/accused.

Arguments on the bail application heard.

1. It is submitted by Ld. Counsel for the applicant/accused has been falsely implicated in the present case as he has not committed any offence whatsoever; that the applicant/accused is not responsible in the demise of victim/deceased Arpit @ Golu and the investigation in the present case was not done in proper manner. It is further argued that through the applicant/accused Nishu is named in the present case FIR, however, he has not played any role in the alleged offences.

2. Ld. Counsel for the applicant/accused has argued that investigation of the present case is complete and now the chargesheet has already been filed by the IO; that the applicant/accused has clean antecedents; that applicant/accused

ready to furnish sound and reliable surety, if bail is granted to him by the Court.

3. Per-contra, Ld. Addl. PP for the state has strongly opposed the bail application stating that allegations against the accused/ applicant are grave in nature; present case FIR has been registered on the statement/complaint of the complainant Kuldeep who has stated that the victim/deceased Arpit @ Golu is his brother-in-law (*Saala*) who was residing with his family at Jagatpuri, Delhi as a tenant and was doing a private job; one of the accused namely Dhruv @ Golu used to reside in his neighbourhood and applicant/accused Nishu and Rishu used to reside in the siad house as tenants; that his brother-in-law/*saala* Arpit @ Golu (the victim/deceased) used to talk to Dhruv @ Golu's sister due to which accused Dhruv @ Golu had nurtured a grudge against the victim/deceased Arpit @ Golu.

It is further stated that on 18.10.2024 at about 10.15 pm, the victim/deceased Arpit @ Golu made a phone call to the complainant Kuldeep and told him that the accused Dhruv @ Golu had come and he is calling him in the street; the complainant told him [his brother-in-law (*saala*)] that he is also reaching there; and at about 10.40 pm, when the complainant reached at the *patree* of *Naala* near Sanjay Tent & Furniture House, he saw that the accused Dhruv @ Golu , his cousin/*chachera bhai* Rishu and Nishu (applicant/accused) and three-four more boys were beating the victim/deceased Arpit@Golu in black and blue; the complainant could somehow rescued the victim from those boys; thereafter, the accused Dhruv and other accused persons fled the scene of crime; the victim/deceased told the complainant about severe pain in his abdomen; meanwhile, the complainant dialed

112 number and rushed the victim/deceased to Dr. Headgewar Hospital and the doctors, after giving treatment, sent the victim/deceased to his house; that at about 4.30 am, during the night/early morning, pain and suffering of the victim/deceased worsened and then, the complainant and his brother-in-law (*saala*) Ajab Singh took the victim/deceased to GTB Hospital, where the Doctor declared him as “Brought dead”.

4. Ld. Addl. PP for the State has argued that the accused Dhruv @ Golu along with his co-associates including applicant/accused Nishu, in furtherance of their common intention had attacked the victim/deceased Arpit @ Golu in a pre-mediated manner, resulting into his death. Thus, all the accused persons have killed/murdered the victim; that the applicant/accused is named in the FIR as one of the assailants. It is further stated by Ld. Addl. PP for the State that the Chargesheet has been filed as there are sufficient grounds to presume that the applicant/accused has committed the offences in question.

It is further stated by Ld. Addl. PP that the Statement of eye-witness Kuldeep culminated into the present FIR wherein, he has fully supported the case of Prosecution and has stated that the applicant/accused Nishu along with his co-associates attacked the victim/complainant.

5. This Court has heard the arguments on this application and has also perused the available record.

6. This Court is mindful of the rule of law that liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. Thus, the fundamental principle is of Bail

and not Jail. However, the liberty of an individual is not absolute and the society by its collective wisdom through the process established by law can withdraw that liberty if that individual becomes a potential danger to the societal order. Therefore, the discretion granted to the courts U/s 437 and 439 Cr.P.C. needs to be exercised cautiously and carefully by balancing the Rights of the accused and interests of the society/public at large.

7. As per the case of the prosecution, accused Dhruv @ Golu along with his co-associates including Nishu, in furtherance of their common intention, attacked the victim/deceased Arpit @ Golu in a pre-mediated manner and thus, killed/murdered him; the applicant/accused Nishu is named in the FIR as one of the assailants.

Allegations against the applicant/accused are quite grave in nature. As per the Post Mortem Report of the victim/deceased Arpit @ Golu, his cause of death is opined as "Hemorrhagic shock consequent upon blunt force trauma to the abdomen". It is well settled principle of law that at the stage of determining the question of bail, minute/ detailed evaluation of the facts and appreciation of evidence on merits, is not to be done. The trial of the matter is yet to commence. Possibility of threatening or inducing the witnesses, by the applicant/accused, cannot be ruled out at this stage.

Considering the enormity of the offences alleged, severity of the punishment which the alleged offence entails coupled with the above-stated reasons, this Court does not find it a fit case to grant bail to the accused/ applicant Nishu, at this stage. Therefore, the present bail application stands, **dismissed**.

8. *Nothing expressed hereinabove, shall tantamount to any opinion on the merits of this case.*

9. In complicity of directions of Hon'ble Supreme Court in case titled '*In Re: Policy Strategy for Grant of Bail*', *Writ Petition (Crl.) No. 04/2021 dated 31.01.2023*, copy of this order be sent to applicant through concerned Jail Superintendent for information.

10. Copy of order be given dasti to Ld. Counsel for the applicant/accused and to the State as well.

(SURABHI SHARMA VATS)
ASJ-04, Shahdara/KKD Courts,
Delhi/01.04.2025