

U/s : 302/34 IPC & 25/27/54/59 Arms Act

08.10.2025

Present: Shri Dushyant Siwatch, Ld. Chief Public Prosecutor
for the State.
Shri Kush Tanwar, counsel for applicant/accused.
IO Inspector Satyendra Dhull.

The applicant/accused Tushar @ Aniket has moved
4th bail application under Section 483 B.N.S.S. for grant of bail.

During the course of arguments, it has been argued
on behalf of Counsel for applicant/accused that applicant/accused
has been falsely implicated in the present case and is in custody
since 06.02.2020. It is further submitted that the applicant had
withdrawn his bail application before the Hon'ble High Court of
Delhi vide order dated 24.04.2024 with the liberty to file afresh
before this Court after examination of prosecution witness
Shalini is concluded. It is further submitted that none of the
material public witnesses have deposed nothing incriminating
against the applicant/accused. It is submitted that all the material
public witnesses have been examined. It is further submitted that
PW Shalini and PW Mohini have not deposed anything qua the
applicant/accused and even the PW-11 who was alongwith IO on
the date of incident has not supported the case of prosecution. It
is further submitted that there is no proof of call recording of
05.02.2020 and therefore, it cannot be implied that the said call
was made from the mobile phone of applicant/accused. It is
further submitted that empty cartridges were recovered two days

after the date of incident. It is submitted that the applicant/accused has not misused the interim bail which was earlier granted to him and he is in JC for more than five years. It is further submitted that applicant/accused has no previous antecedents. It is submitted that applicant/accused is ready to abide by any condition imposed while grant of bail. It is prayed that applicant/accused be granted bail.

Reply has been filed by the IO.

The present application has been opposed by Ld. Chief Public Prosecutor for the State and the mother of the deceased on the ground that the allegations against the applicant/accused are grave and serious in nature. It is further submitted that applicant/accused was actively involved in the commission of the said offence alongwith other co-accused and was driving the vehicle / scooter and the co-accused Sumit was the pillion driver at the time of the commission of the offence. It is further submitted that the first gun shot was fired by the applicant/accused and even the call made to Mohini was made from the mobile number of the applicant/accused. It is further submitted that even the weapon of offence has been recovered at his instance and the fire bullet also matched with the firearm recovered from both the accused persons. It is prayed that present application be dismissed.

Arguments heard. Record perused. Considered.

Perusal of the record reflects that charge under Section 302 IPC & 25/27 Arms Act has been framed against the applicant/accused. The matter is at the stage of prosecution evidence. At this stage, perusal of the deposition of PW-1 Mohini on 13.10.2022 reflects that she had admitted that on 04.02.2020,

she had seen applicant/accused Tushar alongwith co-accused Sumit at District Centre, Janak Puri, however, in the cross-examination, she stated that she had not seen the applicant/accused Tushar in the mall of Janak Puri. It is further seen that PW-6 Harjeet Singh, mother of deceased stated that on 02.02.2020, she had seen the applicant/accused alongwith co-accused following her and her son (since deceased) and her son (deceased) had told that applicant/accused and co-accused had objected his relationship with Mohini and they were intending to kill him. She stated that she had seen both the accused persons following her deceased son. It is further come on record during the deposition of PW-11 HC Pawan Kumar that the countrymade pistol and three live cartridges were recovered from the house of applicant/accused Tushar at his instance. It is further seen that as per the supplementary charge-sheet, the FSL report has been filed and as per the FSL result of the Ballistic Division, the recovered empty cartridge alongwith bullet recovered from the dead body of deceased have been fired with the recovered weapon of offence which was sent to FSL. The IO during arguments has stated that co-accused Sumit had called Mohini on 05.2.2020 from the mobile phone of applicant/accused and even the motorcycle used to commit the said offence belonged to applicant/accused. It is settled proposition of law that evidence cannot be read in piecemeal and has to be read as a whole. Therefore, considering the gravity of offence and the facts and circumstances discussed above, I am not inclined to grant bail to the Applicant/accused. Hence, bail application of the Applicant/accused is dismissed.

Nothing stated in the order shall tantamount to

expression on merits of the case.

Copy of this order be given dasti to the Counsel for the Applicant and IO, as prayed for.

Copy of the order be sent to concerned Jail Superintendent for necessary information.

(Gurmohina Kaur)
ASJ-05/South-West District,
Dwarka Courts/New Delhi
08.10.2025