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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 224/2022**

KULDEEP TOMARAppellant
Through: Mr. Sunil Kumar Mehta, Adv.
(M: 9810150483)

versus

STATE (NCT OF DELHI)Respondent
Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav and Mr. Lalit
Luthra, Advs. with SI Suresh Kumar
Meena, PS: Usman Pur
Mr. Harsh Prabhakar, Amicus Curiae,
Mr. Dhruv Chaudhary, Mr. Adeeb
Ahmad, Mr. Yash Kotak, Ms. Eshita
Pallavi, Advs. for Victims

3

WITH

+ **CRL.A. 225/2022 & CRL.M.(BAIL) 609/2022, CRL.M.(BAIL)
1878/2024**

SMT MITHLESHAppellant
Through: Mr. Ajay Verma and Mr. S.S. Tomar,
Advs. (M: 9811098069)

versus

STATE (NCT OF DELHI)Respondent
Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav and Mr. Lalit
Luthra, Advs. with SI Suresh Kumar
Meena, PS: Usman Pur
Mr. Harsh Prabhakar, Amicus Curiae,
Mr. Dhruv Chaudhary, Mr. Adeeb
Ahmad, Mr. Yash Kotak, Ms. Eshita
Pallavi, Advs. for Victims

4

WITH

+ **CRL.A. 226/2022 & CRL.M.A. 1327/2025, CRL.M.(BAIL)
611/2022, CRL.M.(BAIL) 107/2025**
SH RAM BHAROSEAppellant

Through: Mr. Ajay Verma and Mr. S.S. Tomar,



Advs. (M: 9811098069)

versus
STATE (NCT OF DELHI)Respondent
Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav and Mr. Lalit
Luthra, Advs. with SI Suresh Kumar
Meena, PS: Usman Pur
Mr. Harsh Prabhakar, Amicus Curiae,
Mr. Dhruv Chaudhary, Mr. Adeeb
Ahmad, Mr. Yash Kotak, Ms. Eshita
Pallavi, Advs. for Victims

5
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WITH
CRL.A. 227/2022 & CRL.M.(BAIL) 612/2022
SH SANJAY TOMARAppellant
Through: Appearance not given.

versus
STATE (NCT OF DELHI)Respondent
Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav and Mr. Lalit
Luthra, Advs. with SI Suresh Kumar
Meena, PS: Usman Pur
Mr. Harsh Prabhakar, Amicus Curiae,
Mr. Dhruv Chaudhary, Mr. Adeeb
Ahmad, Mr. Yash Kotak, Ms. Eshita
Pallavi, Advs. for Victims

6
+

WITH
CRL.A. 323/2022
NEERAJAppellant
Through: Appearance not given.

versus
STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav and Mr. Lalit
Luthra, Advs. with SI Suresh Kumar
Meena, PS: Usman Pur
Mr. Harsh Prabhakar, Amicus Curiae,
Mr. Dhruv Chaudhary, Mr. Adeeb
Ahmad, Mr. Yash Kotak, Ms. Eshita
Pallavi, Advs. for Victims



CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

ORDER

% **22.01.2025**

1. This hearing has been done through hybrid mode.

CRL.M.A. 1327/2025 in CRL.A. 226/2022

2. Allowed, subject to all just exceptions. Application disposed of.

CRL.M.(BAIL) 1878/2024 in CRL.A. 225/2022

CRL.M.(BAIL) 107/2025 in CRL.A. 226/2022

3. These are applications under Section 357 read with Section 482 of CrPC filed on behalf of the Appellants - Smt. Mithilesh and Shri. Ram Bharose, respectively, seeking suspension of sentence during pendency of the present appeal.

4. The Appellants are the parents of the accused Shri. Kuldeep Tomar, Shri. Sanjay Tomar and Shri. Pardeep. The Appellants - Smt. Mithilesh and Shri. Ram Bharose are 69 and 71 years of age, respectively. One of the co-accused *i.e.*, Sh. Neeraj, who has also been convicted by the Trial Court *vide* the impugned judgement of conviction dated 2nd March, 2022, is the brother-in-law of the accused Shri. Sanjay Tomar.

5. Mr. Kalia, Id. Counsel appearing for the Appellants submits that Neeraj has already been granted regular bail *vide* order dated 7th March, 2024 by the Predecessor Bench of this Court. He further submits that the reasoning in the said order would squarely apply in respect of both the present Appellants as well.

6. Mr. Prabhakar, Id. Counsel for the Respondent/Complainant, however, submits that the parents used to live in the same house and were complicit in



the crime. It is also submitted that there were past complaints as well against the father *i.e.*, Mr. Ram Bharose.

7. The Court has considered the observations of the Trial Court in paragraphs 79, 80 and 80.10 of the impugned judgement. A perusal of the same would show that the conviction by the Trial Court is based on the testimony given by **PW-12, PW-13, PW-16** and **PW-17**.

8. These appeals are to be taken up for hearing finally. The present Appellants have already undergone more than five years of incarceration.

9. Smt. Mithlesh has already been released on interim bail *vide* order dated 29th August, 2024, which had been extended *vide* order dated 12th December, 2024 till today.

10. The order dated 7th March, 2024, *vide* which the co-accused Mr. Neeraj has been granted regular bail is also relevant. The same is reproduced for ease of reference:

“2. Though, the connected appeals have already been listed for final hearing on 24.04.2024 along with the appeal filed by co-convict, learned counsel for the applicant/appellant submits that conviction is based on assumption that he was part of conspiracy which was never proved. Therefore, the sentence of applicant/appellant is liable to be suspended.

3. It is not in dispute that applicant/appellant, herein is brother-in-law (Sala) of Sanjay Tomar, co-convict.

4. PW-12 and 13 are reportedly the witnesses who claimed in the statements recorded under Section 161 Cr.P.C that they heard the accused including the applicant/appellant herein, hatching the conspiracy of murder in question. However, it is not in dispute that said PWs have not supported the case when they



deposed before the Court. Despite cross-examination done by the prosecutor, nothing came out against them.

5. It is also not in dispute that the surviving allegation against the appellant is that after the incident, he merely provided two sim-cards to co-convicts to facilitate them to avoid arrest. Even the prosecution admits such fact.

[...]

1. The applicant/appellant has already undergone incarceration for a period of 4 ½ years and was reportedly on bail during the trial.

2. Keeping in view the aforesaid facts and without observing anything further on the merits of the case, we hereby suspend the sentence of the appellant during the pendency of the appeal. The appellant be released on bail, on his furnishing a bail bond of Rs.25,000/- with one surety of like amount, subject to the satisfaction of the learned Trial Court concerned.”

11. Under these circumstances and considering the order dated 7th March, 2024, granting regular bail to the co-accused *i.e.*, Neeraj, this Court is inclined to suspend the sentence awarded to Sh. Ram Bharose and Smt. Mithlesh, subject to furnishing of bail bonds in the sum of Rs. 25,000/- each with one surety of the like amount, subject to the satisfaction of the Trial Court/Link Court, further subject to the following conditions:-

- i. The concerned Appellants shall not leave the country without prior permission of this Court.
- ii. The concerned Appellants shall intimate this Court by way of an affidavit and to the concerned Investigating Officer regarding any change in the residential address.



- iii. The concerned Appellants shall appear before this Court as and when the matter is taken up for hearing.
 - iv. The concerned Appellants shall provide their respective mobile number to the concerned Investigating Officer and intimate about any change thereto.
12. The present applications are allowed in the above terms and disposed of accordingly.
 13. Copy of the order be communicated to the concerned Jail Superintendent for necessary information and compliance.
 14. Order be uploaded on the website of this Court *forthwith*.
- CRL.A. 224/2022**
- CRL.A. 225/2022 with CRL.M.(BAIL) 609/2022**
- CRL.A. 226/2022 with CRL.M.(BAIL) 611/2022**
- CRL.A. 227/2022 with CRL.M.(BAIL) 612/2022**
- CRL.A. 323/2022**
15. List these appeals for hearing on 21st April, 2025.

PRATHIBA M. SINGH, J.

DHARMESH SHARMA, J.

JANUARY 22, 2025/sp/ms