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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 1795/2025

SUNIL MAAN .....Petitioner

Through: Mr. Sumeet Shokeen, Mr. Prayag D. Sehrawat, Mr. Prateek and Mr. Deepesh, Advocates.

versus

STATE GOVT OF NCT OF DELHI .....Respondent

Through: Mr. Mukesh Kumar, APP.
Insp. Hitender Kumar, PS: Mangol Puri.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 17.09.2025

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (formerly, Section 482 of the Code of Criminal Procedure, 1973[2]) seeks regular bail in FIR No. 1683/2015 for the offences under Sections 302/120B/34 of the Indian Penal Code, 1860[3] registered at P.S. Mangol Puri.

2. The Prosecution, in brief, is as follows:

2.1. On 25th August, 2015, information was received at P.S. Mangol Puri *vide* DD No. 45A, stating, *"West Enclave, Outer Ring Road, Mangolpuri ke saamne jhagda jyada ho gaya hai."* Preliminary inquiry revealed that a violent quarrel had broken out, inside a jail van transporting undertrial prisoners,[4] which then reached Bhagwan Mahavir Hospital, Delhi.

2.2. This jail van (bearing number DL 1PC 6693) was found stationed at

[1] "BNSS"
[2] "Cr.P.C."
[3] "IPC"
[4] "UTPs"

the Hospital. The Investigating Officer[5] collected the MLCs of the two injured UTPs, namely Vikram @ Paras @ Goldi and Pradeep @ Bhola, who were both declared "brought dead." The MLCs recorded that they had been brought in an unconscious, bleeding state with an alleged history of physical assault inside the van.

2.3. Ct. Hem Prakash (the Complainant), who was part of the escort duty, recorded statement on 25th August, 2015, stating that he, along with ASI Karan Singh and other police staff, was on jail van duty. On the said day, after producing the UTPs, namely Sunil (the Applicant), Dinesh, Pradeep (deceased), Sunny, Vikram @ Paras @ Goldi (deceased), Naveen @ Bali, Naveen, Rahul @ Kala, and Neeraj Sehrawat @ Neeraj Bawania, before the Rohini Courts, they were returning to Central Jail, Tihar. Around 4:45 PM, as the van reached Outer Ring Road, West Enclave, an altercation broke out between Neeraj Bawania and the two deceased. Neeraj allegedly began physically assaulting them, and was soon joined by other co-accused, including the present Applicant. The deceased persons fell down in the van and started bleeding. It is alleged that some accused tied *gamchhas* (cloths) around their necks and pulled them forcefully. On witnessing this, the Complainant raised an alarm and the van was halted. Efforts were made by ASI Karan Singh and HC Babu Prasad to intervene, but they were allegedly obstructed by accused Naveen and Rahul @ Kala. The injured UTPs were taken to Bhagwan Mahavir Hospital, where they were declared 'brought dead'. Based on the Complainant's statement, the FIR was registered and investigation commenced. The accused, including the Applicant, were arrested on the same day.

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[5] "IO"

2.4. Post-mortems of the deceased were conducted at Maulana Azad Medical College, Delhi. As per the post-mortem report, the death of Vikram @ Paaras @ Goldi occurred due to a combined effect of shock and haemorrhage due to multiple injuries (injury nos. 1-5, 10) to the head and abdomen, caused by blunt trauma, and asphyxia due to ligature strangulation (injury no. 11). Likewise, the death of Pradeep @ Bhola was reported to have occurred due to a combined effect of shock from head injuries (injury nos. 1-14) and asphyxia due to ligature strangulation (injury no. 18). The post-mortem further confirmed that all injuries were ante-mortem, fresh, and consistent with the history of physical assault inside the van.

3. Although multiple grounds have been urged in the application, Mr. Sumeet Shokeen, counsel for the Applicant, has confined his submissions before this Court to two principal points:

3.1. The Applicant was arrested in connection with the subject FIR on 25th August, 2015, and has remained in judicial custody for over ten years. The investigation has long been completed, the chargesheet filed, and no further custodial interrogation is required. Continued incarceration, it is argued, serves no investigative purpose and has become punitive in effect. Applicant's prolonged detention violates his fundamental right to a speedy trial under Article 21 of the Constitution of India. On this ground alone, it is urged, the Applicant deserves to be enlarged on bail. Reliance is placed on the judgment of the Supreme Court in ***Vijay Madanlal Choudhary and Others v. Union of India and Others***,[6] wherein it has been observed as follows:

> *"321. The Union of India also recognised the right to speedy trial and*

[6] (2023) 12 Supreme Court Cases 1

access to justice as fundamental right in their written submissions and, thus, submitted that in a limited situation right of bail can be granted in case of violation of Article 21 of the Constitution. Further, it is to be noted that Section 436-A of the 1973 Code was inserted after the enactment of the 2002 Act. Thus, it would not be appropriate to deny the relief of Section 436-A of the 1973 Code which is a wholesome provision beneficial to a person accused under the 2002 Act. However, Section 436-A of the 1973 Code, does not provide for an absolute right of bail as in the case of default bail under Section 167 of the 1973 Code. For, in the fact situation of a case, the court may still deny the relief owing to ground, such as where the trial was delayed at the instance of the accused himself.

322. Be that as it may, in our opinion, this provision is comparable with the statutory bail provision or, so to say, the default bail, to be granted in terms of Section 167 of the 1973 Code consequent to failure of the investigating agency to file the charge-sheet within the statutory period and, in the context of the 2002 Act, complaint within the specified period after arrest of the person concerned. In the case of Section 167 of the 1973 Code, an indefeasible right is triggered in favour of the accused the moment the investigating agency commits default in filing the charge-sheet/complaint within the statutory period. The provision in the form of Section 436-A of the 1973 Code, as has now come into being is in recognition of the constitutional right of the accused regarding speedy trial under Article 21 of the Constitution. For, it is a sanguine hope of every accused, who is in custody in particular, that he/she should be tried expeditiously — so as to uphold the tenets of speedy justice. If the trial cannot proceed even after the accused has undergone one-half of the maximum period of imprisonment provided by law, there is no reason to deny him this lesser relief of considering his prayer for release on bail or bond, as the case may be, with appropriate conditions, including to secure his/her presence during the trial.

323. The learned Solicitor General was at pains to persuade us that this view would impact the objectives of the 2002 Act and is in the nature of superimposition of Section 436-A of the 1973 Code over Section 45 of the 2002 Act. He has also expressed concern that the same logic may be invoked in respect of other serious offences, including terrorist offences which would be counterproductive. So be it. We are not impressed by this submission. For, it is the constitutional obligation of the State to ensure that trials are concluded expeditiously and at least within a reasonable time where strict bail provisions apply. If a person is detained for a period extending up to one-half of the maximum period of imprisonment specified by law and is still facing trial, it is nothing short of failure of the State in upholding the constitutional rights of the citizens, including person accused of an offence.

324. <u>Section 436-A of the 1973 Code, is a wholesome beneficial</u>

provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be detained further. Indeed, Section 436-A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436-A of the 1973 Code, however, the court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial.

325. However, that does not mean that the principle enunciated by this Court in Supreme Court Legal Aid Committee Representing Undertrial Prisoners, to ameliorate the agony and pain of persons kept in jail for unreasonably long time, even without trial, can be whittled down on such specious plea of the State. If Parliament/legislature provides for stringent provision of no bail, unless the stringent conditions are fulfilled, it is the bounden duty of the State to ensure that such trials get precedence and are concluded within a reasonable time, at least before the accused undergoes detention for a period extending up to one-half of the maximum period of imprisonment specified for the offence concerned by law. ***[Be it noted, this provision (Section 436-A of the 1973 Code) is not available to the accused who is facing trial for the offences punishable with death sentence****.]*

326. In our opinion, therefore, Section 436-A needs to be construed as a statutory bail provision and akin to Section 167 of the 1973 Code. Notably, the learned Solicitor General has fairly accepted during the arguments and also restated in the written notes that the mandate of Section 167 of the 1973 Code would apply with full force even to cases falling under Section 3 of the 2002 Act, regarding money laundering offences. On the same logic, we must hold that Section 436-A of the 1973 Code could be invoked by the accused arrested for the offence punishable under the 2002 Act, being a statutory bail."

[Emphasis Supplied]

3.2. Mr. Shokeen further relies on the Ministry of Home Affairs guidelines dated 27th September, 2014, which urge States and Union Territories to adopt measures to reduce overcrowding in prisons. These guidelines specifically note that where the maximum punishment prescribed is life

imprisonment, the same should be reckoned as equivalent to 20 years in terms of Section 57 of the IPC. On that basis, the 'half-life' of the sentence for the purposes of Section 436-A Cr.P.C. would be ten years, entitling an undertrial to be considered for release upon completion of that period. This legal position has also been recognised by this Court in ***Mohd. Hakim v. State (NCT of Delhi)***.[7]

3.3. Reliance is also placed on ***Union of India v. K.A. Najeeb***,[8] where the Supreme Court, even in the context of stringent special statutes, held that long periods of custody with no realistic prospect of early conclusion of trial can justify release on bail, notwithstanding the gravity of charges. The Court observed that the constitutionality of restrictive bail provisions is premised on the expectation of speedy trials, and once that expectation is defeated, Article 21 demands intervention.

3.4. The role ascribed to the Applicant is materially distinguishable from that of the co-accused. The Prosecution's case is that five accused, including the Applicant, strangulated the deceased with bare hands and *gamchas* inside the jail van. However, the MLCs of the four co-accused show scratches and injuries on their forearms and wrists, consistent with active physical engagement. In contrast, the Applicant bore no such injuries, indicating absence of participation in the assault or strangulation.

3.5. The Prosecution's attempt to link the Applicant to the so-called 'Neeraj Bawania Gang' is also said to be tenuous. Unlike the co-accused, who face multiple other prosecutions traceable to the alleged gang, the Applicant has not been implicated in any such case, and there is no

[7] 2021 SCC OnLine Del 4623: (2021) 285 DLT 127, Paragraph Nos. 6, 26-36.
[8] (2021) 3 Supreme Court Cases 713, Paragraph Nos. 12 and 18.

independent material to establish his membership.

3.6. When the Applicant was released on interim bail on medical grounds, he did not misuse the liberty granted to him and duly surrendered before the jail authorities upon the expiry of the interim bail period.

4. On the other hand, Mr. Mukesh Kumar, APP for the State, opposes the present bail application and submits that the judgments relied upon by the Applicant are not applicable. He emphasises that the present case concerns the brutal murder of two undertrial prisoners inside a jail van, committed in concert by the Applicant and his co-accused while being transported under escort. He further submits that the Applicant is a hard-core criminal, presently involved in four criminal cases, and is associated with the Neeraj Bawania and Tillu Tajpuriya gangs, both of which have multiple rival factions. He argues that the Applicant's criminal antecedents, coupled with his alleged gang affiliations, make him a threat to public safety. Mr. Kumar further submits that other notorious and hardened criminals are also co-accused in the present case, and if the Court forms an opinion that the Applicant deserves to be released merely on the basis of prolonged custody, it would attract the principle of parity, thereby encouraging similarly placed co-accused to seek bail, which may set an undesirable precedent. In view of the gravity of the offence, the nature of the allegations, and the larger public interest, the State contends that the Applicant is not entitled to bail at this stage.

5. The Court has considered the rival contentions advanced by the parties. The thrust of Applicant's plea is the prolonged delay in the conclusion of the trial. Indeed, inordinate delay in the conclusion of trial and prolonged incarceration of an accused have been recognised by the Supreme

Court as valid ground for grant of bail, particularly where the completion of trial does not appear imminent. Undoubtedly the Applicant has been in judicial custody since 25th August, 2015, and has thus remained incarcerated for over ten years. The record further discloses that the Prosecution has cited a total of 70 witnesses, of whom only 29 witnesses have been examined so far. Having regard to this background, this Court had called for a status report from the Trial Court to ascertain the reasons for the pendency. The report reveals that the delay is not attributable solely to prosecutorial inertia, but has stemmed from a confluence of factors:

> *"**Reasons for non-completion of trial**: In the present matter, total 07 accused persons are facing trial and all of them are running in judicial custody. All the accused persons in this case are the members of famous notorious gang - "Neeraj Bawania Gang", including Neeraj Bawania himself who is the prime accused in this case.*
> *After Covid -19 pandemic, all seven accused persons were produced through VC being High Risk Prisoners. On some of the occasions, neither accused has been produced nor their counsels appeared.*
> *During trial, accused Dinesh @ Thapa jumped interim bail and was declared PO on 05th December, 2019. Declaration of proclaimed offender proceedings took approximately 04 months. After five years of trial he got arrested in some other case and found to be lodged in Sunariya Jail, Rohtak. His production warrants were issued for 12th January, 2024. Co-accused accused Sunny @ Rakesh was also granted interim bail vide order dated 02nd March, 2024 but he also jumped interim bail and did not surrender. Process under section 82 Cr.P.C. were issued against him vide order dated 18th April, 2024 and he was declared proclaimed offender vide order dated 16th November, 2024. These proceedings also took approximately 07 months. He was further got arrested and produced before the court on 30th January, 2025. It is also pertinent to mention that due to COVID-19 Pandemic, the regular court work was hampered for about two years which also caused delay in trial of cases.*
> ***Approximately time required for completion of trial**: All endeavour shall be made to conclude the trial at the earliest but considering the heavy docket of this Court (pendency about 820 cases and having heavy miscellaneous work including bail matters), number of accused persons and the fact that 40 prosecution witnesses including 10 material witnesses are yet to be examined, 18 months time may be required to conclude the trial."*

6. In light of the foregoing, it is apparent that the delay in completion of trial cannot be laid wholly at the doorstep of the Prosecution. The report from the Trial Court makes it evident that a considerable portion of the delay is traceable to the conduct of certain co-accused, who absconded while on interim bail and had to be declared proclaimed offenders, thereby stalling the proceedings for several months. Systemic disruptions, particularly the Covid-19 pandemic, also contributed to the loss of judicial time. At present, the Trial Court has indicated that earnest efforts are being made to expedite the matter, and has projected that the trial can reasonably be concluded within a period of about eighteen months.

7. As regards the contention that the Applicant's role is distinguishable on merits, this Court is of the opinion that, at the stage of bail, it is not appropriate to conduct a mini-trial or engage in a comparative analysis of the individual roles ascribed to the accused persons. With several Prosecution witnesses yet to be examined, any determination on the Applicant's specific role or culpability *vis-à-vis* the co-accused would risk prejudicing the case of either side.

8. As to the plea under Article 21 read with Section 436-A of the Cr.P.C., the governing framework is clear. For ease of reference, the provision is extracted:

> *"436A. Maximum period for which an undertrial prisoner can be detained.—Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law* ***(not being an offence for which the punishment of death has been specified as one of the punishments under that law)*** *undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:*
> ***Provided that the Court may, after hearing the Public Prosecutor and for***

reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties*:*
Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.
Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded."

9. A plain reading of the provision makes it evident that the benefit under Section 436-A is not available to undertrial prisoners who are facing trial for offences *punishable with death*. This limitation is categorical and operates as an exception to the general rule of release on bail after undergoing one-half of the maximum period of imprisonment. Section 436-A is, therefore, not an absolute or indefeasible right, but a statutory mechanism aimed at effectuating the constitutional guarantee of a speedy trial under Article 21. In fact, the judgement in ***Vijay Madanlal Choudhary***, relied upon by the Applicant, itself clarifies that Section 436-A Cr.P.C. is inapplicable to cases where the accused is facing trial for offences punishable with death.

10. In the present case, the Applicant stands charged with the offence of murder under Section 302 of the IPC, which, *inter alia*, prescribes death as one of the punishments. While it is true that the imposition of capital punishment is reserved for the rarest of rare cases, it is equally well-settled that the existence of death as a statutorily prescribed punishment brings the offence within the express exclusion contemplated under Section 436-A of the Cr.P.C. Accordingly, the Applicant's reliance on Section 436-A is clearly misplaced, as the provision does not extend to undertrial prisoners charged with offences punishable with death.

11. Even otherwise, the provision itself is qualified by a proviso, which vests discretion in the Court to decline release, even where the threshold of detention is crossed, provided reasons are recorded in writing. Thus, even in cases where the offence does not entail death as a punishment, release under Section 436-A is not automatic, but subject to judicial discretion based on the facts and circumstances of each case.

12. The Applicant's reliance on Section 57 IPC and the Ministry of Home Affairs' advisory dated 27th September, 2014 also does not advance his case. Section 57 is a deeming provision intended for the purpose of calculating fractions of punishment, not for converting life imprisonment into a fixed term of 20 years.

13. Accordingly, while the Applicant's prolonged custody is a factor that warrants oversight by this Court, the appropriate remedy is to press for a time-bound trial, rather than enlarge him on bail at this stage.

14. The Supreme Court has, in ***Shaheen Welfare Association v. Union of India***,[9] recognised that while prolonged incarceration engages Article 21, cases involving hardened offenders and serious crimes may warrant continued custody despite delay. Here, the record reflects that some co-accused have already misused interim bail and been declared proclaimed offenders, which undermines the plea that the present Applicant can be viewed in isolation.

15. Viewed against this backdrop, the Court is of the opinion that the Applicant's case does not warrant the discretionary relief of bail. The allegation here is of double custodial homicide under Section 302 IPC, an offence punishable with death or life imprisonment, placing it in the class of

[9] (1996) 2 SCC 616.

gravest crimes. The Trial Court's report indicates that while there has been delay, a material part of it is attributable to abscondence of co-accused and pandemic-related disruption, and not wholly to prosecutorial inertia. Pertinently, the Trial Court has projected a timeline of approximately 18 months for completion of the trial.

16. Accordingly, the bail application is dismissed, along with all pending applications. The Trial Court is therefore requested to monitor the matter closely, endeavouring to examine the remaining witnesses within 18 months and reporting progress at quarterly intervals to the Principal District and Sessions Judge.

17. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

18. Copy of the order be sent to the concerned Trial Court and Principal District and Sessions Judge, for necessary information and compliance.

19. Disposed of.

SANJEEV NARULA, J

SEPTEMBER 17, 2025
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