



2025:DHC:5616



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

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Date of Decision: 15.07.2025+ **BAIL APPLN. 2099/2025**

SAMIR @ AZHAR

.....Petitioner

Through: Mr. Aditya Aggarwal and Mr. Ankit
Mutreja, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with Inspector Gianender, PS
Welcome**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No.753/2022 of PS Welcome for offences under Section 302/212/120B IPC and 25 Arms Act. After last date, status report was filed. I have heard learned counsel for the accused/applicant and learned APP for the State assisted by IO/Inspector Gianender Singh.

2. Briefly stated, prosecution case flowing from the FIR registered on the statement of brother of the deceased is as follows. On 01.12.2022, at about 11:30pm, when he was going to purchase medicine for his mother on his father's scooty and reached near M.R. Medicos, he heard a sound of a bullet fire. On going towards the lane from where the sound of firing had come, he saw the accused Kamran and Saifu, both carrying pistols and they



aimed the same towards him, so out of fear, he turned to the other lane. After some time, he returned to his lane to find that his brother Nabeel was lying in a pool of blood, surrounded by many persons. When he picked Nabeel, the latter told him that he had been shot at by Kamran and Saifu. On being taken to hospital, Nabeel was declared brought dead.

3. On behalf of the accused/applicant, it is argued that the accused/applicant is not named in the FIR and has been falsely implicated. The accused/applicant is in custody since 10.12.2022 and chargesheet has been filed but charges are yet to be framed.

4. On the other hand, learned APP for the State assisted by the IO submits that in view of seriousness of the offence, the accused/applicant is not entitled to bail. It is further contended by learned APP that according to the evidence on record, the arms and ammunition used in the offence had been supplied to the killers by the accused/applicant, so he is not entitled to bail.

5. To begin with, it is strongly deprecated that in order to oppose the liberty of an individual, the Investigating Officer has appeared without the original police file or Case Diaries. It is the Case Diary which is authentication of the investigation.

6. However, on being called upon to disclose the evidence against the accused/applicant, the IO stated that the arms and ammunition were



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recovered from a house where the accused/applicant resided. It is further disclosed by the IO that the alleged recovery of the arms and ammunition was consequent upon the disclosure statement of the alleged killers Kasim and Kamran. Admittedly, before carrying out the alleged search of the house, no notice was given to the owner or even occupant of the house. Not just this, there is also no evidence to show that the accused/applicant was residing in that house as an owner or as a tenant.

7. Considering the above circumstances coupled with the incarceration of the accused/applicant since the year 2022 and the stage of the proceedings before the trial court, I do not find it a fit case to further deprive the accused/applicant liberty.

8. Therefore, the bail application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned trial court.

9. Copy of this order be sent to the concerned Jail Superintendent for being immediately conveyed to the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

JULY 15, 2025/ry