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

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Date of Decision: 15.01.2026

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BAIL APPLN. 155/2026 & CRL.M.A. 1320/2026

JAGARNATH SHAH @ LALA

.....Petitioner

Through: Mr. Abhishek Rana and Mr. Vikas,
Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with IO/Inspector Vivek Singh, PS
Alipur.
Mr. Vikram Panwar and Mr. Vijay,
Advocates for complainant.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks interim bail in case FIR No.297/2025 of PS Alipur for offence under Section 103(1)/238(b) BNS and 25/27 Arms Act on medical grounds.

2. Broadly speaking, the allegation against the accused/applicant is that he not just killed the deceased but even burned the body, apparently to conceal identity. As per prosecution, the evidence against the accused/applicant is by way of a CCTV footage coupled with recovery of

BAIL APPLICATION 155/2026

Page 1 of 4 pages

GIRISH
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weapon of offence and the vehicle in which the accused/applicant took the deceased away. Besides, there is also evidence of last seen.

3. The accused/applicant has sought interim bail on medical grounds and it is contended that in jail, he is getting only conservative treatment as his CT Brain is scheduled for 22.01.2026 and MRI Brain is scheduled for 11.05.2026 at Safdarjung Hospital. Learned counsel for accused/applicant has taken me through the status report (*Annexure P-4*) which was filed by the State before the learned Court of Sessions. It is contended by learned counsel that condition of the accused/applicant is deteriorating on account of some neurological issue.

4. Learned APP for State assisted IO/Inspector Vivek Singh strongly opposes the interim bail application, submitting that the accused/applicant has concealed order dated 29.10.2025 of the Court of Sessions, whereby his application for extension of interim bail on medical grounds was dismissed, observing that earlier after being granted interim bail on medical grounds, the accused/applicant did not immediately start his treatment and took no steps in that regard till 28.10.2025, after which he sought extension of medical bail.

5. Learned counsel for complainant *de facto* also has pointed out from order dated 19.12.2025 of the learned Court of Sessions that earlier when the accused/applicant was granted interim bail on medical grounds, his family members tried to encroach upon the property belonging to the complainant



de facto and wife of the deceased also filed a complaint vide DD No.36-A dated 28.10.2025.

6. At this stage, learned counsel for accused/applicant, on instructions, seeks permission to withdraw this interim bail application.

7. As requested, the interim bail application and the accompanying application are dismissed as withdrawn.

8. Of course, in the normal state of affairs concealment of a fact should be a ground to summarily throw out the petition/application. But present is a case where the accused/applicant is in jail and the medical status report filed before the Court of Sessions does reflect some neural issues.

8.1 Despite the aforesaid, the accused/applicant, as a human being cannot be deprived of proper medical treatment, more so when he is under detention in judicial custody. Right to health is an integral part of the fundamental right to life and liberty. The applicant as on date is only an accused, not a convict, as allegation of his complicity in the alleged offence is yet to be tested by the trial court. Even the most dreaded criminal and convict has fundamental right to life and liberty, and the same cannot be abrogated without following due process of law.

8.2 The court in such cases has to carry out balancing of interests to ensure that the detained accused person is not deprived of appropriate

BAIL APPLICATION 155/2026

Page 3 of 4 pages

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medical treatment and at the same time, the State and the complainant *de facto* also do not suffer.

8.3 Therefore, in the present case, the Medical Superintendent of AIIMS Hospital is directed to carry out CT Brain and MRI Brain of the accused/applicant on priority basis within one week from today. For that purpose, the IO shall present a copy of this order before the Medical Superintendent, AIIMS Hospital by tomorrow and thereafter, on the date fixed by the Medical Superintendent, the accused/applicant shall be taken in custody to get conducted his CT Brain and MRI Brain, followed by his requisite medical treatment in jail or any hospital attached with the jail.

9. Copy of this order be transmitted immediately to the Jail Superintendent concerned.

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**GIRISH KATHPALIA
(JUDGE)**

JANUARY 15, 2026/ry