

8 SC 96/2023

STATE Vs. AAFTAB AMIN POONAWALA
659/2022
(Mehrauli)
U/S-302/201 IPC
CNR-DLST01-001925-2023

22.07.2026

(From 02:00P.M. to 05:15 P.M)

Present: Sh.Madhukar Pandey, Special Public Prosecutor for
State a/w Mr. Saravjeet Singh, Advocate.

Ms. Seema Khushwaha, Advocate for the complainant
a/w Shreejay Vikas Walker (brother of deceased).

Ms. Megha Saroa a/w Mr. Janak Raj Ambavat,
Advocates for the accused.

Accused Aaftab Amin Poonawala produced from Jail No.
04, Tihar Jail, PID No. 1176650.

IO/Inspector Ram Singh a/w HC Bhawani, MHC (M)
with case property.

PW-148 Inspector Sandeep Kumar, No. 4796, presently
posted at ATO Madhu Vihar, Delhi is present.

1) At the outset, an exemption request was sent by SI Ankit Sharma (now posted at PS Fatehpur Beri) that he is unable to appear before the Court as he has been directed to appear in person before the Hon'ble High Court.

2) The testimony of PW-148, Inspector Sandeep Kumar is being recorded.

3) At 02:26 P.M., while the testimony of PW-148, Inspector Sandeep Kumar, was being recorded, Ms. Seema Khushwaha learned counsel for the complainant, Shreejay Vikas Walker (brother of deceased) has lodged her protests that the accused Aaftab Amin Poonawala (Aaftab) will not sit adjacent or next to the Advocate's desk.

4) Heard.

5) The counsel for the complainant, Ms. Seema Kushwaha, raised a similar protest on **19.03.2026**, during the cross-examination of PW125 (HC Deepak). The same was duly recorded and dealt appropriately and the Court's observations form part of the record.

6) Once again, the protest has been lodged and the same is declined for the reasons stated in the ensuing paragraphs of this order. *Firstly*, the Court has often permitted the accused, Aaftab to sit closely along with his police escort, behind or in close proximity to the defence counsel for ease of communication, which is in the vicinity of the Advocates' Desk.

7) *Secondly*, the Court on prior occasion declined the similar request by Counsel as it was observed that if the Aaftab Amin Poonawala, is made to sit in one corner, particularly during recording of the testimony of prosecution witnesses, the defence counsel has to traverse back and forth in the courtroom from Advocate's Desk to the confined corner of the courtroom.

8) As a matter of abundant caution, for convenience and smooth conduct of the Court proceedings, the accused Aaftab Amin Poonawala was permitted to sit adjacent, right behind his counsel, Ms.Megha Saroa.

9) *Thirdly*, Hon'ble High Court of Delhi, *vide* Notification No. 163/Rules/DHC dated 06.05.2009, has introduced Rule 14 at the end of Chapter 1 Part A of the Delhi High Court Rules and Orders, Volume 3. The Rule 14 states that the Accused is to be permitted to sit during the trial. The Rule 14 of the Practice Direction is reproduced as below:

***“RULE 14: Accused to be permitted to sit during the trial.– The accused in a criminal trial shall be permitted to sit down during the trial, unless it becomes necessary for the accused to stand up for any specific purpose such as identification of accused or otherwise. This facility accorded to the accused, however, should not be construed in derogation of the established convention followed in the Court that everyone concerned should stand when the Presiding Officer enters the Court.*”**

NOTE: THIS AMENDMENT SHALL COME INTO FORCE FROM THE DATE OF ITS PUBLICATION IN THE GAZETTE.

*By order of the Court,
Sd/-
Registrar General”*

10) Further, the Court has also dealt on prior occasion that be it accused, no matter for how grievous and heinous offence, he also has rights and the Apex Court has repeatedly held that neither accused can be denied a proper seating in the courtroom, nor a treatment which may reek of disgust, vengeance.

11) Above all the hallmarks of criminal jurisprudence of our country is the presumption of innocence, and an accused also has a right to fair trial. The right to fair trial inherently includes right and access to counsel. Article 22(1) of the Constitution of India, 1950 and multifold legal provisions enshrined in the Code of Criminal Procedure, 1973 (CrPC), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), protect the accused's right to be defended by a legal practitioner of choice. This may at times require the accused sitting close enough to communicate to their counsel.

12) In view of the above observations, the Court declines the unwarranted and unreasonable request by the learned counsel for the complainant.

13) That said, PW – 148, Inspector Sandeep Kumar recalled for further examination-in-chief pursuant to filing of 2nd supplementary chargesheet. He is further examined and his cross examination is deferred. The testimony of PW148 was read over to him in compliance with Section 278 CrPC.

14) At this stage, an application seeking permission to record the evidence of witnesses through VC under Rule 11 of Chapter IV of Electronic Evidence and VC Rules 2025 of High Court of Delhi filed on behalf of the State. Witnesses are as under:-

- a) Nodal Officer, WhatsApp LLC and Meta Platform Inc. – Mr. Adrian Silvera;
- b) Nodal Officer, Google LLC – Ms. Shelby Smith;
- c) Nodal Officer, Google (Gmail) – Ms. Arti Sheth;
- d) Nodal Officer, Bumble – Mr. Luke Mitsi.

15) Copy supplied.

16) Ld. counsel for the accused seeks time to file a reply on the said application. Request allowed. Let the reply be filed within two days from today with an advance copy to be served upon the opposite party through counsel.

17) The aforesaid **application will be taken up for arguments on 24.07.2026.**

18) Issue fresh summons to PW148 Sandeep Kumar for his cross examination on **27.07.2026.**

19) Issue fresh summons to IO/Inspector Ram Singh, SI Ankit Sharma and MHC (M) with case property for next date of hearing.

20) To come up for PE on the date already fixed i.e., **23.07.2026 at 02:00 P.M.**

(Hargurvarinder Singh Jaggi)
ASJ (FTC)–01, South District
Saket, New Delhi/22.07.2026

EB