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

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CNR No. DLHC010025452026

+ **BAIL APPLN. 358/2026**

HIMANSHU JOSHI

.....Petitioner

Through: Mr Akshay Bhandari, Ms Megha Saroa, Mr Kushal Kumar, Mr Janak Raj Ambavat, Advocates.

Versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for State with Insp. Pankaj, PS H.N. Din. Mr. Sambhav Jain and Mr. Pranav Raj Singh, Advocates for complainant.

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CNR No. DLHC010291222026

+ **BAIL APPLN. 2591/2026**

BASANTI SOUND

.....Petitioner

Through: Mr. Shrikant Sharma, Advocate.

Versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Shoaib Haider, APP for State with Insp. Pankaj, PS H.N. Din. Mr. Sambhav Jain and Mr. Pranav Raj Singh, Advocates for complainant.



CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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19.08.2026

1. By way of the instant applications, the applicant namely, Himanshu Joshi (**'Himanshu'**) seeks grant of regular bail in connection with FIR No.128/2024 for the offence punishable under Sections 302/396/412/120B/34 of the Indian Penal Code, 1860 (**'IPC'**); and the applicant namely, Basanti Sound (**'Basanti'**) also seeks regular bail in the same offence punishable under Sections 394/302/397/412/120B/34 of the IPC, registered at PS Hazrat Nizamuddin, Delhi.
2. The prosecution story indicates that on 10.05.2024, an information was received by the police and when the police reached the house of the deceased namely, Dr. Yogesh Chander Paul situated at C-14, Jangpura Extension, Delhi, it was found that he was lying dead in suspicious circumstances with both hands found to be tied and visible injury was noticed on the back of his head. Additionally, jewellery and cash were allegedly found missing from the house. On the basis of the aforesaid information, the said FIR came to be registered, investigation was carried out and thereafter, the charge sheet was filed.
3. Learned counsel appearing on behalf of the applicants submit that the applicants are innocent and have been falsely implicated in the instant case. According to them, the entire prosecution story is based on circumstantial evidence and the disclosure statements. There is no recovery from the applicants and they were not even present at the time of incident.
4. Additionally, it is contended on behalf of applicant Himanshu that, he



was at Haridwar on the date of incident, which is even as per the prosecution's own showing. The date of incident is 10.05.2024 and the said applicant has been implicated on the pretext that on 05.05.2024, he conducted recce; and thereafter, was in constant touch with the other co-accused persons. There are no criminal antecedents against the said applicant and he has already undergone long incarceration.

5. Furthermore, submissions have also been made by learned counsel appearing on behalf of the applicant namely, Basanti. It is contended that she was the maid of the deceased family working for the last 25 years, and this should not be only ground to implicate her. There is no Call Detail Record (CDR) with the other accused persons. She was allegedly in touch with one of the co-accused/Varsha. It is submitted that she was not aware about the criminal intent of the co-accused persons. It is also stated that there is no criminal record of the applicant namely, Basanti.

6. Submissions made on behalf of respective applicants are vehemently opposed by learned APP for the State as well as by learned counsel appearing on behalf of the deceased family. They contend that there is strong circumstantial evidence against the present applicants. The call details of the applicant namely, Himanshu with the other accused persons and the CCTV footage of 05.05.2024, clearly establishes the applicant Himanshu's complicity. Similarly, it is contended that the applicant namely, Basanti, was being visited by Varsha and at the instance of Basanti, all secret information of the deceased family were passed on to the accused persons. Thus, both Himanshu and Basanti are the part of larger conspiracy, and are not entitled for grant of regular bail.

7. I have considered the submissions made by learned counsel for the



parties and also perused the record.

8. The applicant namely, Himanshu is in jail and has undergone 1 year, 10 months and 8 days as on 24.03.2026 as per the nominal roll and, by now, has already suffered about 2 years and 2 months incarceration. Similarly, the applicant namely, Basanti has already undergone 2 years, 2 months and 17 days incarceration as on 28.07.2026 as per the nominal roll. Thus, it can be seen that both these applicants have already suffered more than 2 years' incarceration. Also, there are no criminal antecedents of these applicants.

9. The continued incarceration of the applicants, in the facts and circumstances of the present case, would have to be balanced against his fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India.

10. The applicants were admittedly not present at the time of the incident i.e. on 10.05.2024. Their complicity has been shown on the basis of the circumstantial evidence. There seem to be 8 accused persons including the present applicants. The main accused namely Bheema was killed in encounter, Varsha @ Malti has been declared a proclaimed offender. Other accused persons namely, Akash, Vishnu, Pankaj Narjri and Bhim @ Bahadur are in jail.

11. The applicant namely, Himanshu is allegedly shown on the CCTV footage on 05.05.2024. However, the FSL of the CCTV footage is still awaited. The CDR analysis and the disclosures made during investigation is the only evidence, as of now, against Himanshu. Similarly, Basanti is not shown at the time of incident. There are no CDRs of Basanti with other accused persons. The explanation by Basanti was that she knew Varsha, as they both belong to Nepal and is not involved in any criminal conspiracy,



and this contention at present, cannot be fully ruled out. Thus, the case of the prosecution against both the applicants i.e. Himanshu and Basanti is based on the circumstantial evidence.

12. The circumstances relied upon by the prosecution are required to form a complete and unbroken chain, pointing towards the guilt of the applicant and excluding every hypothesis consistent with his innocence. The law governing the appreciation of a case resting upon circumstantial evidence is well crystallised. The locus classicus is ***Sharad Birdhichand Sarda v. State of Maharashtra***,¹ wherein the Supreme Court formulated the five *Panchsheel* conditions which must be satisfied before guilt can be said to be established on the basis of circumstantial evidence: -

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

‘Certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.’

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

¹ (1984) 4 SCC 116.



(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the Panchsheel of the proof of a case based on circumstantial evidence.”

13. It is trite that the object of bail is not to inflict punishment by way of pre-trial detention. In ***Dataram Singh v. State of U.P.***,² the Supreme Court reiterated that the presumption of innocence remains in favour of the accused and that bail is the rule.

14. The Supreme Court in ***Union of India v. K.A. Najeeb***,³ held that an under trial cannot be subjected to indefinite incarceration pending trial and that, where it becomes evident that a timely conclusion of the trial is not possible and the accused has already undergone a substantial period of incarceration, constitutional Courts would ordinarily be obligated to enlarge the accused on bail, notwithstanding the statutory restrictions governing the grant of bail. The relevant para is extracted as under: -

“15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Under trial Prisoners) v. Union of India, it was held that under trials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the Courts are tasked with

² (2018) 3 SCC 22.

³ (2021) 3 SCC 713.



deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge them on bail.”

[Emphasis supplied]

15. The trial is at the stage of prosecution evidence and only 1 out of the total 46 prosecution witnesses have been examined so far. The trial is, therefore, not likely to conclude in the near future. There is no material on record to attribute the delay in conclusion of the trial to the applicants.

16. Bearing in mind the long incarceration of more than 2 years, the nature of the offence which is circumstantial in nature, this Court is of the opinion that the applicants are entitled for grant of regular bail.

17. Accordingly, the applicants are directed to be released on regular bail on such terms and conditions as may be imposed by the concerned trial Court.

18. Nothing stated, hereinabove, shall be construed as an expression on the merits of the case. The observations made herein are confined solely to the adjudication of the present bail applications. The trial Court shall adjudicate the matter independently and in accordance with law, on the basis of the evidence adduced before it.

19. The applications stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 19, 2026

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