

Mohd Azim Nadaf vs State Govt. Of Nct Of Delhi on 3 April, 2025

\$~5

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision:

+

BAIL APPLN. 831/2025

MOHD AZIM NADAF

....

Through:

Mr. Kapil Singhal, Mr. A

and Mr. Pinky Bansal, Ad

versus

STATE GOVT. OF NCT OF DELHI

.....Respon

Through: Mr. Nawal Kishore Jha, APP for t

State with Inspr. E.S.Yadav and

Harkesh Meena, PS Mahendra Park

CORAM:

JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant, suffering incarceration since 19.11.2020 seeks to be released on bail in case FIR No. 647/2020 for offences under Sections 302/120B/201/34 IPC registered at Police Station Mahendra Park.

2. The prosecution case is based on circumstantial evidence.

3. According to prosecution case, on the fateful night, residents of a house woke up on hearing a thud sound of something having fallen on the iron grill ceiling of the house. The residents found a person lying fallen on the grill ceiling and it appeared that he had fallen or jumped from the roof
BAIL APPLN. 831/2025 Page 1 of 4 pages DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI
H I G H C O U R T , G I R I S H K A T H P A L I A
2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d4 35f97626cacca,
p o s t a l C o d e = 1 1 0 0 0 3 , s t = D E L H I ,
s e r i a l N u m b e r = D 3 E 8 6 7 9 6 4 5 1 E C 4 5 C 0 7 B 5 D 1 5 5 7 0 9 9 6 B 4 0 F 8 0 C B D 2 E E
E60402C487965FF801E26FA, cn=GIRISH KATHPALIA Date: 2025.04.03 17:58:29 -07'00' top. On
the roof top, some blood stains and a hand written note bearing four names were found. The
deceased was identified as Sheikh Alam, a rickshaw puller. Further investigation revealed that the
accused/applicant used to suspect that his wife had illicit relations with those four persons. Since
the accused/applicant was already involved in two more cases, according to prosecution, the
accused/applicant hatched a conspiracy with his co-accused Habib @ Guddu and Nandan Kumar @
Nandu in order to get those four persons fixed. Accordingly, the said three persons namely, the
accused/applicant, Habib and Nandan called the rickshaw puller Sheikh Alam, with whom Habib
had some prior enmity. All three accused persons took Sheikh Alam to the roof top where all of them
consumed liquor, after which they assaulted Sheikh Alam with a stone and after writing the note
naming those four persons against whom the accused/applicant held suspicion, the accused persons
pushed Sheikh Alam from roof top and he fell on the iron grill ceiling.

4. Learned counsel for accused/applicant submits that so far only three out of 31 prosecution witnesses have been examined and none of them has deposed any fact against the accused/applicant. It is further contended by learned counsel for accused/applicant that there is no evidence to connect the accused/applicant with the killing of Sheikh Alam.

5. Learned Prosecutor submits that keeping in mind the gravity of offence where the accused persons not only killed an innocent person but BAIL APPLN. 831/2025 Page 2 of 4 pages DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI HIGH COURT, GIRISH KATHPALIA 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d43 5f97626cacca, postalCode = 110003, st = DELHI, serialNumber=D3E86796451EC45C07B5D15570996B40F80CBD2EEE60402C487965FF801E26FA, cn=GIRISH KATHPALIA Date: 2025.04.03 17:58:13 -07'00' also tried to falsely implicate those four persons against whom the accused/applicant nurtured suspicion of their illicit relations with his wife, grant of bail is opposed. In response to a specific query, the learned Prosecutor on instructions from Investigating Officer/Inspr. E.S. Yadav submits that the only evidence against the accused/applicant is recovery of the stone used in the assault and recovery of rickshaw of the deceased.

6. Admittedly, none of the occupants of the building concerned were examined to find out if anyone saw the accused/applicant or the co-accused persons or the deceased going to the roof top. Also admittedly, no chance prints were lifted from the staircase or stone or any other portion of the building to connect the accused/applicant with the crime.

7. So far as the disclosure statement of the accused/applicant is concerned, the same would be admissible only to the extent of knowledge of the accused/applicant about the place where the stone was lying.

8. As mentioned above, it is a case of circumstantial evidence.

9. Considering the above circumstances, coupled with the fact that trial will take long time to conclude, I find no reason to further deprive the accused/applicant his liberty. Therefore, the application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the trial court.

BAIL APPLN. 831/2025 Page 3 of 4 pages DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI HIGH COURT, GIRISH KATHPALIA 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435f9 7626cacca, postalCode = 110003, st = DELHI, serialNumber=D3E86796451EC45C07B5D15570996B40F80CBD2EEE60402C487965FF801E26FA, cn=GIRISH KATHPALIA Date: 2025.04.03 17:57:56 -07'00'

10. It is made clear that none of the above observations shall have bearing on the final outcome of the trial.

11. Copy of this order be sent to the Superintendent of the concerned jail forthwith for informing the accused/applicant about this order.

GIRISH Digitally signed by GIRISH KATHPALIA DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI HIGH COURT, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435f97626cacca, postalCode=110003, st=DELHI, KATHPALIA serialNumber=D3E86796451EC45C07B5D15570996B40F80C BD2EEE60402C487965FF801E26FA, cn=GIRISH KATHPALIA Date: 2025.04.03 17:57:36 -07'00' GIRISH KATHPALIA, J APRIL 3, 2025 'rs' BAIL APPLN. 831/2025 Page 4 of 4 pages