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

CNR No. DLHC010923202025

+ **BAIL APPLN. 4483/2025**

RAHUL @HIMANSHU

.....Petitioner

Through: **Mr. Amitej Kumar Nagar, Adv.**

versus

STATE GOVT. NCT OF DELHI

.....Respondent

Through: **Mr. Shoaib Haider, APP.**

SI Pankaj Dhatarwal PS Bawana.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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13.08.2026

CRL.M.A. 34664/2025 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 4483/2025 & CRL.M.A. 24690/2026

3. This application has been filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") seeking regular bail in connection with FIR No. 227/2019, registered at Police Station Bawana, Delhi, for the offences punishable under Sections 307/120-B/34 of the Indian Penal Code, 1860. (IPC)
4. Mr. Amitej Nagar, learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. It is contended that, as of now, the evidence



of 8 witnesses has been fully recorded, while the evidence of PW-9 is in progress. It is further submitted that the injured witness, PW-5, namely Mohit, has not supported the prosecution case. Learned counsel thus contends that the applicant, who has already undergone more than 7 years of incarceration, is entitled to be released on bail, both on merits and on the ground of prolonged incarceration.

5. Mr. Shoaib Haider, learned APP for the State vehemently opposes the present application and submits that, although two co-accused have been granted regular bail by the Trial Court, the role attributed to the present petitioner is materially different from that of the said co-accused and, therefore, the petitioner cannot claim parity with them. It is further submitted that the petitioner is a habitual offender and has been involved in four criminal cases, including the present case, out of which two cases are under Section 307 IPC and one each under Sections 302 and 392 IPC. Learned APP submits that the allegations against the petitioner are serious in nature and that his antecedents, coupled with the gravity of the offence, constitute sufficient grounds for declining the relief of regular bail.

6. I have considered the submissions advanced by learned counsel for the parties and have perused the record.

7. The facts of the case would indicate that on 22.05.2019, information was received through the Police Control Room that 2-3 persons had arrived on a motorcycle and, after firing upon a person, had fled towards Katewara Village, pursuant to which the police reached the spot and thereafter Maharishi Valmiki Hospital, where the injured/victim Mohit Dalai was found admitted with an alleged gunshot injury and was declared unfit for statement. As no eyewitness was found either at the spot or at the hospital,



present FIR was registered. During investigation, co-accused Hitesh @ Happy was arrested and disclosed the involvement of the present petitioner. The petitioner was subsequently arrested by the Special Cell in another case on 07.07.2019 and was thereafter formally arrested in the present case. Upon completion of investigation, charge-sheet was filed and charges were framed.

8. 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.*,¹ the Supreme Court reiterated that the presumption of innocence remains in favour of the accused and that bail is the rule, while in *Prasanta Kumar Sarkar v. Ashis Chatterjee*,² the Court delineated the relevant considerations which must guide the exercise of discretion in matters of bail. The same principle was reiterated in *Sanjay Chandra v. CBI*,³ wherein the Supreme Court emphasised that incarceration before conviction ought not to be punitive in character.

9. More recently, in *Satender Kumar Antil v. CBI*,⁴ the Supreme Court has emphasised that prolonged incarceration pending trial, particularly where the trial is not likely to conclude within a reasonable period, has to be viewed in the light of the guarantee of personal liberty under Article 21 of the Constitution.

10. The Supreme Court in *Union of India v. K.A. Najeeb*,⁵ 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

¹ (2018) 3 SCC 22

² (2010) 14 SCC 496

³ (2012) 1 SCC 40

⁴ (2022) 10 SCC 51



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.

“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 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]

11. As aptly observed by division Bench of this Court in ***Mohd. Hakim v. State (NCT of Delhi)***⁶, the Court must play the role of a “doctor” rather than a “coroner”, by protecting the right to a speedy trial before it is rendered illusory by prolonged incarceration, instead of recognising its violation after the constitutional injury has become irreversible

12. This Court finds that there are four accused persons in the present case, out of whom one is a CCL and the other two accused, namely Hitesh and Akash, have already been enlarged on regular bail, while the present applicant is the fourth accused. The applicant has been in custody since 08.07.2019 and, as per the nominal rolls dated 13.04.2026, had undergone 6

⁵ (2021) 3 SCC 713

⁶ 2021 SCC OnLine Del 4623



years 9 months and 6 days of incarceration and has, by now, undergone more than 7 years. There are 36 witnesses in the present case, out of whom only 8 witnesses have been completely examined and the evidence of PW-9 is presently underway. In these circumstances, the trial is not likely to conclude in the near future.

13. In view of the above, the applicant deserves to be considered for grant of regular bail on the ground of long incarceration. The Court has, however, also considered the case of the applicant on merits. PW-5 is the injured witness. His evidence has already been recorded and he has not supported the prosecution case in his testimony. He has stated as under:

“On or about 8:00 pm, while we were consuming liquor, some persons came there and fired. In the said firing, I had received multiple gunshot injuries. After receiving the said bullet injuries, I lost my consciousness. After about 4-5 days, I regained my consciousness in LNJP Hospital. I had not seen the assailants who made the said firing. I also can not assign any reason as to why the assailant had fired bullets. I had not enmity with any person. I cannot identify the assailants. In the hospital, police met me and made inquiries from me and I had narrated the same facts which I have deposed above.”

14. Even otherwise, there is no other witness who has supported the prosecution case. It is, thus, seen that the applicant has a case on merits as well. So far as the criminal antecedents of the applicant are concerned, out of the four pending cases, the applicant has been acquitted in one case. In the remaining three cases, he has already been granted regular bail; however, the bail bonds have not been furnished on account of his continued judicial custody in the present case.

15. Bearing in mind the overall facts and circumstances of the case, the



applicant is directed to be released on regular bail, subject to such terms and conditions as may be imposed by the concerned Trial Court. While imposing the conditions, the Trial Court shall also bear in mind the criminal antecedents of the applicant and impose such conditions as may be necessary to secure his presence during the pendency of the trial.

16. 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 application. The Trial Court shall adjudicate the matter independently and in accordance with law, on the basis of the evidence adduced before it.

17. The application stands disposed of. Pending application also stand disposed of.

18. Let a copy of this order be supplied to the concerned Jail Superintendent for compliance.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 13, 2026

ab/sa