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

+ **BAIL APPLN. 68/2025 & CRL.M.A. 449/2025**

VISHAL MEHRA

.....Petitioner

Through: Ms. Sonal Singh, Mr. Praveen Kumar,
Advocates

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Laksh Khanna, APP for State
with SI Rahul Tomar, P.S. Gandhi
Nagar, SI Vivek Kumar, P.S. B K
Road.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **12.03.2025**

1. The present application has been filed under Section 483 of the Bhartiya Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking grant of regular bail to the accused-Vishal Mehra in the FIR No. 372/2024 under Section 311/3 (5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') and Sections 25/27 of the Arms Act, 1959 ('Arms Act') registered at Police Station (P.S) Gandhi Nagar.

2. The brief facts leading to the registration of the subject FIR as set out in the status report dated 12.02.2025 are as follows: It is stated that on 17.07.2024, a PCR call was received under GD No. 63A regarding an armed robbery. It is stated that the police responded to the crime scene at Property No. IX/2881-82, Gurudwara Gali, Gandhi Nagar, Delhi -31. It is stated that the subject FIR was registered based on a complaint by Abhay Aggarwal,



who reported that four (4) masked individuals entered his property, held him at gunpoint, and stole Rs. 1.5 lakh in cash.

3. It is stated that during the investigation, CCTV footage analysis led to the arrest of the Applicant/Vishal Mehra, along with co-accused Rakesh¹ on 18.07.2024. It is stated that another co-accused, Rizwan, was arrested on 19.07.2024. It is stated that the motorcycle used in the crime was recovered from Rakesh, and Rs. 40,000 in stolen cash was recovered from Rizwan.

4. It is stated that further investigation led to the arrest of another co-accused, Adnan, on 22.07.2024. It is stated that the Adnan disclosed that the Applicant/Vishal Mehra, had arranged the weapon used in the robbery and that the stolen cash was with Rizwan. It is stated that following this disclosure, the police took both Applicant/Vishal Mehra and Rizwan into police custody. It is stated that a pistol with two live cartridges, allegedly used in the crime, was recovered from Applicant/Vishal Mehra. It is stated that co-accused Rizwan further disclosed that only Rs. 40,000/- remained from the stolen cash Rs. 1.5 lakh, as he had lost the rest in gambling.

5. It is stated that the recovered weapon and ammunition were found to match with the shells those retrieved from the crime scene. It is stated that these items were exhibited and sent to the Forensic Science Laboratory (FSL) for expert analysis. It is stated that all search and seizure procedures conducted during the investigation were video-recorded using the E-Sakshya application.

6. It is stated that the chargesheet in the subject FIR was filed before the Trial Court on 12.03.2025. The Applicant/Vishal Mehra along with all other

¹ @ Prince



accused, has been charge-sheeted under Sections 309(4)/311/317(2)/3(5) of the BNS, as well as Sections 25 and 27 of the Arms Act.

Arguments of Applicant

7. Learned counsel for the Applicant/Vishal Mehra states that his client has been falsely implicated in the present case and has no involvement in the alleged robbery. She states that the Applicant is neither named in the FIR nor was he identified by the complainant. She states that apart from the disclosure statement of co-accused Adnan, there is no incriminating evidence in the chargesheet linking the Applicant to the alleged offence.

8. Regarding the recovery of the alleged weapon from the Applicant/Vishal Mishra's residence, he states that the police has fabricated this story. She states that no such recovery was actually made from Applicant's house and that the police falsely planted the weapon to implicate him and complete the list of accused individuals.

9. She states that the investigating agency failed to comply with the mandatory requirements under Sections 105, 185, and 186 of the BNSS. She states that while the crime team had the capability to record videos and take photographs at the alleged crime scene, no such evidence was produced at the time of the supposed recovery of the weapon from the Applicant/Vishal Mehra's residence. She states that this lack of visual documentation raises serious doubts about the authenticity of the recovery claim.

10. She states that there is no evidence on record to establish that the Applicant was present at the crime scene or had any role in the alleged offence. She states that there are no allegations that the Applicant used firearm during the crime or participated in the alleged robbery.



11. She states that the prosecution has failed to provide any call detail records (CDR) linking the Applicant/Vishal Mehra to the other co-accused persons or placing him at the scene of the crime.

12. She states that since the chargesheet has already been filed, keeping the Applicant/Vishal Mehra in custody serves no further investigative purpose. She states that given that charges are yet to be framed and there are 19 witnesses to be examined the trial is expected to take a long time to conclude and the Applicant/Vishal Mehra cannot be kept in custody indefinitely.

13. She states that the Applicant is not visible or identifiable in the CCTV footage relied upon by the Respondent. She states that at the stage of bail considering the weak quality of the footage the benefit should accrue to the Applicant.

Arguments of Respondent-State

14. Learned APP appearing for the Respondent-state strongly opposes the bail application, stating that the entire robbery incident was captured in CCTV footage. He states that although the assailants were wearing masks during the commission of offence, the police have obtained another CCTV recording for period approximately 20 minutes before the incident, in which all the accused, including the Applicant/Vishal Mehra, can be seen preparing for the offence.

15. He states that two live rounds were recovered from the residence of the Applicant/Vishal Mehra. He states that the forensic analysis confirmed that the live cartridges in the recovered pistol matched those used bullet found at the scene of crime, further establishing the Applicant/Vishal Mehra's involvement.



16. He states that a public witness, Sagar, was examined during the investigation. He states that the said witness identified the applicant through CCTV footage and stated that, 2-3 days before the robbery, the Applicant/Vishal Mehra, along with co-accused, was inquiring about cash transactions conducted at the complainant's office. He states that Sagar will be a crucial witness before the Trial Court.

17. He states that Applicant does not have clean criminal antecedents. He states that Applicant has also been accused in another FIR no. 91/2016 registered under Section 376 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) at P.S. Gandhi Nagar .

In this regard, learned counsel for the Applicant states that the Applicant has been acquitted in FIR No. 91/2016.

Analysis and Findings

18. This Court had heard the submissions of the learned counsels for the parties and perused the record.

19. Before delving into the analysis of the facts of this case, it would be apposite to refer to the factors which are to be taken into consideration for granting bail to an accused. The Supreme Court in the case of **Prasanta Kumar Sarkar v. Ashis Chatterjee**², **State of Uttar Pradesh v. Amarmani Tripathi**³, and **Deepak Yadav v. State of Uttar Pradesh**⁴ has set out the conditions to be considered by Court while granting bail, which are summarized as under: -

² (2010) 14 SCC 496.

³ (2005) 8 SCC 21.

⁴ (2022) 8 SCC 559.



- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behavior, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of justice being thwarted by the grant of bail.

20. In the present case, the role attributed to the Applicant/Vishal Mehra, is that he, along with three (3) other co-accused, was allegedly involved in committing the offence of robbery. The prosecution's case primarily relies on CCTV footage and the disclosure statement of co-accused Adnan.

21. It is well settled in law that the statement of a co-accused is not substantive evidence against another accused unless it is corroborated by independent material. In this case, it is an admitted fact that the alleged robbery was committed by masked individuals. The complainant himself does not recognize the assailants. The identity of the Applicant/Vishal Mehra as the assailant will have to be conclusively established by the prosecution at trial beyond a reasonable doubt.

22. Furthermore, while the prosecution relies on CCTV footage for a time period prior to the commission of offence, the visibility of the Applicant in the CCTV footage has been vehemently disputed by the Applicant. The evidentiary value of the CCTV footage and its clarity and/or visibility of the



Applicant therein will also be examined by the Trial Court, after considering the evidence of the proposed prosecution witness Sagar.

23. It is a matter of record that there are no Call Detail Records to corroborate the Applicant's presence at the crime scene.

24. The prosecution has contended that there has been recovery of the pistol from the Applicant, which is disputed by the Applicant and this fact as well will be evaluated at the trial. In the facts of this case, no person was injured and since the assailants were masked, the prosecution in its charge-sheet has not identified the assailant who fired the shot.

25. In the facts of this case, the prosecution has its task cut out, to prove the presence as well as participation of the accused persons beyond reasonable doubt; and their respective specific roles during the commission of the offence.

26. In the facts of this case, since the evidence relied upon by the prosecution is pertaining to CCTV footage, recovery of pistol and ballistic reports, which will be proved by the official witnesses there can be no threat of tampering evidence or influencing the witness. The Applicant is a resident of Delhi and is therefore not at flight risk. Therefore, the triple test is satisfied in the facts of this case.

27. Regarding the Applicant's prior involvement in criminal cases, the learned APP has not disputed that Applicant/Vishal Mehra was acquitted by the Trial Court in FIR No. 91/2016. Therefore, registration of FIR No. 91/2016 cannot be held against the Applicant in the present proceedings.

28. In addition, considering the fact that Applicant/Vishal Mehra is in custody for a period of 6 months and 22 days as on date and since the chargesheet in the present matter has been filed, no purpose would be served



by keeping the Applicant/Vishal Mehra in judicial custody awaiting trial. The Applicant's jail record is reported to be a satisfactory in the Nominal Roll dated 03.02.2025.

29. In this regard, it would be apposite to refer to the Judgement of the Supreme Court in the case of **Sanjay Chandra v. CBI**⁵ wherein it has been held that the grant or refusal of bail lies within the discretion of the Court and the object of bail is to secure the appearance of the accused person at trial. The relevant paragraphs of the said judgment are reproduced hereinbelow: -

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

⁵ (2012) 1 SCC 40



30. In light of the aforementioned facts and law, since the trial in the matter is likely to take some time as the prosecution has enlisted 19 witnesses and thus it would not be prudent to keep the Applicant behind bars for an indefinite period, consequently this Court finds it to be a fit case for grant of bail to the Applicant in FIR No. 372/2024 registered under Sections 311/3(5) of BNS and Sections 25/27/54/59 of Arms Act at P.S. Gandhi Nagar. The applicant is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Applicant will not leave the territory of GNCTD without prior permission of the Court.
- ii. Applicant shall provide permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicant shall join investigation as and when called by the IO concerned.
- v. Applicant shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Applicant will mark presence before the concerned I.O. every 1st Monday of the month at 11:00 AM, and will be not kept waiting for more than an hour.
- vii. Applicant shall not indulge in any criminal activity and shall



not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

31. In the event of there being any FIR/DD-entry/Complaint lodged against the Applicant during the period of bail, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

32. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

33. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

34. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

35. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MARCH 12, 2025/akt

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any