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

+ **BAIL APPLN. 228/2025**

ISMAIL ALIAS ISHAQ

.....Petitioner

Through: Mr. Anurag Ahluwalia, Mr. Satish Verma, Mr. Sandeep, Advocates

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the State with SI Anugraha, PS Welcome

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.08.2025

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 137/2024 registered under Section 307 of the Indian Penal Code, 1860³ at P.S. Welcome. Upon completion of investigation, a chargesheet has been filed against the Applicant for offences under Sections 307, 323, 341 and 34 of IPC and Sections 25 and 27 of the Arms Act, 1959.⁴
2. A copy of the status report has been handed over across the Board and is taken on record.
3. Briefly stated, the case of the prosecution is as follows:

¹ "BNSS"

² "Cr.P.C."

³ "IPC"

⁴ "the Arms Act"



3.1. On 11th February, 2024, a PCR call *vide* DD No. 55A was received at P.S. Welcome wherein SI Brij Mohan informing that two individuals, Azam and Amaan, had sustained gunshot injuries. Pursuant thereto, Aman's brother, Altaf, admitted both injured persons to hospital. The matter was marked to ASI Shakti Singh, the Emergency Duty Officer, who, along with the staff, reached JPC Hospital and collected the MLCs of the victims, detailed below:

a. MLC No. 19480/24 (Azam) – The doctor opined: *“A/H/O firearm injury/gunshot injury inflicted by a known individual at around 09:15 PM on 11th February 2024 near Peeli Matti Mandir Wali Gali, Janta Colony, as stated by the patient. Entry wound measuring approximately 0.5 cm x 0.5 cm (+) NT over left upper abdomen; no exit wound present. U/O firearm injury.”*

b. MLC No. 19481/24 (Amaan) – The doctor noted: *“A/H/O firearm injury/gunshot injury inflicted by a known individual at around 09:15 PM. Degloving injury of left hand. U/O firearm injury.”*

The nature of injuries on both the MLCs was categorised as “Grievous”.

3.2. Azam was referred to GTB Hospital, but due to severe pain he could not give a statement at that time. Amaan, after treatment at JPC Hospital, left without depositing the same day.

3.3. The I.O. inspected the crime scene at Gali No. 8, B-Block, Janta Colony, accompanied by the district crime team. Blood traces were lifted and seized exhibits deposited in the *Malkhana*.

3.4. At that stage, no eyewitnesses could be located and the present case was formally registered on the basis of the DD entry.

3.5. On 13th February, 2024, Amaan's statement was recorded. He stated



that on 11th February, 2024 at about 09:00 PM, while he was strolling outside his residence, he witnessed four persons, Faizan @ Faizi, Ismail @ Ishaq (the Applicant), Faizal @ Maddo and Ayan @ Anua, quarrelling with Azam. The group took Azam to Gali No. 8, where they assaulted him. During the altercation, Azam was pushed and fell onto Amaan. At that point, Faizi allegedly took out a *katta* and fired at Azam. The bullet passed through Amaan's left hand and struck Azam's abdomen. Family members subsequently took both injured persons to JPC Hospital.

3.6. The statements of victim Azam and eyewitness Altaf (who had taken Azam to the hospital) were recorded later. Their accounts corroborated Amaan's version.

3.7. Acting on a tip-off, accused Faizan @ Faizi, Ismail @ Ishaq (the Applicant), Faizal @ Maddo and Ayan @ Anua on 13th February, 2024.

3.8. One country made pistol was recovered from possession of accused Faizal @ Faizi. All the exhibits were sent to FSL and result from ballistic department has been obtained in which the recovered country-made pistol is found to be in working condition.

4. Counsel for the Petitioner argues that the Applicant has been falsely implicated and submits the following:

4.1. The Applicant has remained in judicial custody since 13th February, 2024. The investigation has concluded and the chargesheet and the supplementary chargesheet have been filed. In these circumstances, further incarceration of the Applicant is not warranted for investigative purposes.

4.2. The prosecution has cited a total of 18 witnesses and a supplementary chargesheet is still pending consideration. Given the volume of witnesses and the stage of proceedings, it is likely that the trial will take a considerable



period to conclude.

4.3. All three cited eye-witnesses have already deposed before the Trial Court and each of them has turned hostile, thereby not supporting the case of the prosecution.

4.4. The Applicant is a permanent resident with deep roots in the community, has no prior criminal antecedents and poses no flight risk. He undertakes to comply with all conditions that may be imposed by this Court in the event of being enlarged on bail.

5. *Per contra*, Mr. Mukesh Kumar, APP for the State, opposes the application, emphasising the gravity of the allegations. It is alleged that the Applicant, along with co-accused persons, engaged in a quarrel with victim Azam, during which co-accused Faizan @ Faizi fired a shot from a country-made pistol. The bullet struck Amaan's left hand and subsequently entered Azam's abdominal region. He further submits that the trial has only recently commenced and key prosecution witnesses are yet to be examined. Since the victims and the Applicant reside in the same locality, there exists a substantial apprehension that the Applicant, if released on bail, may intimidate or threaten the witnesses and victims. Furthermore, it is pointed out that the Applicant's earlier bail applications have been rejected by the Sessions Court by orders dated 3rd May, 2024, 15th July, 2024 and 13th December, 2024 and there is no material change in circumstances.

6. The Court has considered the afore-noted facts and contentions. Investigation is complete and chargesheet has been filed. The Applicant has been in custody since 13th February, 2024 and as per the Nominal Roll, his jail conduct is noted to be satisfactory.

7. It is well-settled that, at the stage of deciding a bail application, the



Court is not to embark upon a detailed or conclusive evaluation of the evidence; and only a *prima facie* assessment of the material on record is required to be undertaken. In the present case, the prosecution's case rests substantially upon the testimony of three eye-witnesses. All three material witnesses have been examined and none of them have supported the prosecution's version or attributed any role to the Applicant. It is also relevant that the principal eye-witnesses, on whose testimony the prosecution narrative primarily rests, have not supported the case during trial. While such evidence is not to be discarded outright at this stage, nonetheless, when all material witnesses have turned hostile and no corroborative recovery or identification exists, the evidentiary weight at the bail stage may be considerably diminished.

8. As regards scientific and forensic material, the record indicates that the ballistic and recovery evidence pertains to the role of co-accused Faizan @ Faizi and does not directly connect the Applicant with possession or use of the firearm. The principal link sought to be established against the Applicant is through statements of co-accused persons. However, in terms of Section 27 of the Indian Evidence Act, 1872, such statements, without corroboration, are of limited evidentiary value and cannot, at this stage, be treated as conclusive.

9. The trial has only recently commenced and given the number of witnesses cited, the proceedings are likely to take time. The Applicant has already undergone over 1 year and 6 months of custody, with no prior criminal antecedents and satisfactory jail conduct. The apprehension of witness intimidation, though a relevant consideration, can be mitigated by imposing stringent conditions, including restrictions on contact with the



complainants or other prosecution witnesses.

10. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall not reside within a 3 KM radius of the victims. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
- g. The Applicant shall report to the concerned P.S. on the first Monday of every month.

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



12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

13. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

AUGUST 12, 2025/ab