$~7

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

\+ BAIL APPLN. 326/2025

RAKESH KUMAR .....Petitioner

Through: Mr. Bijendra Kumar Pathak, Advocate.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP.
SI Pramod Kumar, ARSC, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **05.03.2025**

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023,[1] (formerly Section 439 of the Code of Criminal Procedure, 1973)[2] seeks regular bail in proceedings arising from FIR No. 0087/2024 registered under Section 356/379/34 of the Indian Penal Code, 1860[3] at P.S. Chitranjan Park. Subsequently, a chargesheet was filed and charges under Sections 379/356/401/411/413/414/34 of IPC were added.

2. The case of the prosecution is as follows:

2.1. The present case was registered based on a complaint of Sh. Debaratta Sinha, who reported that on 4th April 2024, while he was riding his scooty with his wife and daughter to drop his child at school, two individuals on a

[1] "BNSS"
[2] "Cr.P.C."
[3] "IPC"

motorcycle snatched his gold chain near Setup Gym, C.R. Park, Delhi.

2.2. During the investigation, one of the suspects, Taufik, was apprehended. Upon interrogation, he disclosed that he and his accomplice, Nazakat, were responsible for the chain-snatching incident. Subsequently, permission was obtained from the Trial Court to interrogate the co-accused, Nazakat @ KTM, who was already in judicial custody in Case FIR No. 212/24 at PS Sector-49, Noida, Uttar Pradesh.

2.3. During questioning, Nazakat @ KTM admitted to committing the crime with Taufik. He further revealed that the chain broke into two pieces during the snatching, and both he and Taufik kept one piece each. According to his disclosure, he later handed over his share of the stolen gold chain to his wife, Neha.

2.4. As the investigation progressed, it became evident that the case extended beyond a mere chain-snatching incident. It was uncovered as part of a broader criminal operation orchestrated by Nazakat @ KTM, a notorious gang operating across Delhi-NCR, specializing in robbery and theft. The gang had a structured network, with members assigned specific roles, such as procuring stolen motorcycles, altering number plates, and selling stolen or snatched gold chains and mobile phones. In light of these revelations, additional charges under Sections 401, 413, and 414 of the IPC were invoked. The Applicant, Rakesh Kumar, was identified as an active participant in the network, primarily engaged in disposing of stolen and snatched valuables.

2.5. Notices under Section 41A of the Cr.P.C. were duly served upon the Applicant, directing him to join the investigation. However, instead of complying, he sought anticipatory bail from the Sessions Court, which was rejected. He then approached this Court for anticipatory bail, which was also denied.

2.6. On 26th July, 2024, the Applicant surrendered before the Trial Court and was subsequently arrested. The police obtained a three-day custodial remand, during which a recovery of gold, found in molten form, was made from his shop.

2.7. During interrogation, it emerged that the Applicant's son, Sanchit Agarwal, was also involved in illicit activities, assisting his father in procuring snatched, stolen, and robbed gold chains, which were then melted and sold as raw material. This involvement was further corroborated by the disclosure statement of co-accused Praveen Mohammad.

2.8. Financial transactions between the Applicant's son, Sanchit Agarwal, and accused Neha (wife of the main accused, Nazakat @ KTM) were also uncovered. Additionally, call records revealed frequent telephonic communication between the Applicant and co-accused Praveen Mohammad, as well as other family members of Nazakat @ KTM, further strengthening the case against him.

2.9. The main chargesheet, along with a supplementary chargesheet, has already been filed before the concerned court on 6th August, 2024, and 19th October, 2024, respectively.

3. Counsel for the Applicant presses for bail on the following grounds:

3.1 The Applicant has been falsely implicated in the present case. He was not named in the FIR and was only arrayed as an accused at the chargesheet stage, solely on the basis of the disclosure statement of co-accused Nazakat @ KTM. The prosecution alleges that Nazakat disclosed that he regularly procured snatched gold chains and resold them through various jewellery shops, including the establishment, 'Laxmi Jewellers', owned by the Applicant. However, the Applicant has no knowledge of the events forming the basis of the FIR, and the allegations against him are baseless and fabricated.

3.2 A search was conducted at the Applicant's jewellery shop, during which 2.55 grams of gold in molten form were recovered. However, the Investigating Officer failed to conduct test identification proceedings to establish whether the recovered gold was connected to the present case or if it was part of the Applicant's legitimate business. The Applicant maintains that the recovered gold was lawfully purchased from a customer, Shri Ashwani, against a proper bill dated 14th May, 2024, which was provided to the IO but was disregarded during the investigation.

3.3 The Applicant has a clean record and has been in judicial custody since 26th July, 2024. The primary investigation is complete, and both the main and supplementary chargesheets have been filed. Since no further custodial interrogation is required, his continued incarceration serves no meaningful purpose.

3.4 Other accused persons, including Amit Kumar, Neha (wife of the main accused, Nazakat @ KTM), and Parveen Mohammad (mother of Nazakat), have already been granted bail. Given that the allegations against them are of a similar nature, the Applicant is entitled to bail on grounds of parity.

4. Mr. Yudhvir Singh Chauhan, APP for the State, opposes the application on the following grounds:

4.1. The allegations against the Applicant are grave. The case involves an organized criminal network engaged in systematic snatching and robbery, which disrupts public order and spreads fear among citizens.

4.2. The operation of such criminal syndicates instils a sense of insecurity in the public, and their activities must be curbed with a firm hand to maintain law and order.

4.3. The investigation has revealed financial transactions between the Applicant's son, Sanchit Agarwal, and other accused persons, including Neha (wife of Nazakat), which raises serious suspicions regarding the Applicant's role in the disposal of stolen goods.

4.4. Apart from the co-accused's disclosure, the recovery of case property and other material evidence substantiate the Applicant's involvement in facilitating the laundering of stolen gold.

4.5 Despite receiving a notice under Section 41A of Cr.P.C., the Applicant deliberately chose not to join the investigation and instead attempted to evade law enforcement. This conduct indicates a likelihood of him absconding or evading trial if released on bail.

4.6 The Applicant, being a jeweller, plays a crucial role in the criminal chain by purchasing stolen gold and jewellery from offenders who resort to violent means to commit theft. By providing an easy avenue to dispose of stolen property, he effectively enables and sustains these criminal enterprises while reaping financial benefits at the expense of law and order.

4.7 The Applicant's involvement in a well-established network of stolen goods trade suggests that he may continue engaging in similar offenses if granted bail, posing a continuing threat to public safety.

5. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim

sought to be achieved by bail is to secure the attendance of the accused person at the trial.[4]

6. The investigation is complete, and both the chargesheet and supplementary chargesheet have been filed. The Applicant has been in judicial custody since 26th July, 2024. As per the nominal roll, as on 27th February, 2025, the Applicant has been in judicial custody for 7 months and 2 days. The overall jail conduct of the Applicant has been stated to be satisfactory.

7. The alleged role of the Applicant primarily pertains to the disposal of stolen property, rather than direct involvement in the underlying offences of snatching or robbery. Furthermore, while the State has raised concerns regarding the Applicant's alleged financial transactions and telephonic communications with other accused persons, these aspects are matters of trial and do not justify prolonged pre-trial incarceration, particularly when other similarly placed co-accused have been granted bail.

8. The Court also takes note of the State's apprehension that the Applicant, if released, may engage in similar activities or evade trial. However, the Applicant is a permanent resident, has no prior criminal antecedents, and has surrendered before the Trial Court, demonstrating his willingness to cooperate with the proceedings. Any concerns regarding flight risk can be addressed by imposing appropriate conditions to ensure that the Applicant remains available for trial and does not interfere with the investigation or witnesses.

9. In view of the above and considering the settled principles governing

[4] See also: ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40; ***Satender Kumar Antil v. Central Bureau of Investigation***, (2022) 10 SCC 51.

the grant of bail, the Court finds that the continued incarceration of the Applicant is not warranted. Accordingly, the Applicant is entitled to be released on bail, subject to strict conditions to mitigate the concerns raised by the prosecution.

10. Accordingly, it is directed that the Applicant be released on bail on furnishing a personal bond for a sum of ₹50,000/- 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 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 PS on first Friday of every month at 11 AM and shall not be kept waiting for more than an hour.

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

MARCH 5, 2025
d.negi