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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 537/2025 & CRL.M.A. 3819/2025 EXEMPTION
FORM FILING STATUS REPORT, 7046/2025 PERMISSION TO
BRING ON RECORD ANNEXURES

DURGESH KUMAR TIWARIPetitioner

Through: Mr. R. P. S. Bhati, Adv

versus

THE STATE (GOVT OF NCT OF DELHI) THROUGH SHO PS
NAND NAGRI DELHIRespondent

Through: Mr. Hitesh Vali, APP with SI
Narender, PS Vikaspuri and IO
Mangal Ram.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **02.04.2025**

**CRL.M.A. 7047/2025 (EXEMPTION FROM FILING CERTIFIED
COPIES ETC.)**

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

BAIL APPLN. 537/2025

1. This is a bail application filed by the petitioner/accused under Section 483 BNSS, 2023 for the grant of bail in Case FIR no.612/2020 under Section 279/307/34 IPC, PS-Vikaspuri.
2. The learned counsel for the petitioner submits that the petitioner was not driving the subject vehicle at the time of alleged incident as is evident



from the cross-examination of PW-2 who stated that driver of the vehicle was arrested by the Police. In further cross-examination he deposed that co-accused Karan Sethi was with the police meaning thereby the present petitioner was not driving the offending vehicle.

3. It is further submitted that Police has seized the CCTV footage but the last part of the footage which may have shown as to who came down from the car has not been seized.

4. It is argued that Hon'ble Supreme Court has time and again emphasised that Right to Life and Personal Liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct.

5. The learned counsel further states that investigation is complete. All the three material public witnesses have already been examined. Petitioner is not required for any custodial interrogation.

6. He further contends that petitioner was arrested on 28.08.2020, since then he is in custody except for the period from 21.05.2021 to 07.04.2023 when he remained on interim bail, granted by the HPC Guidelines issued during Covid-19 by Hon'ble Supreme Court. It is further submitted that no useful purpose shall be served by keeping petitioner in judicial custody.

7. The bail application has been vehemently opposed by the learned APP arguing that petitioner was the driver of the offending vehicle. He has been identified in TIP as well as in Court by the eyewitnesses. It is further submitted that petitioner is a hardened criminal having scant regard for the life inasmuch as he dragged the victim by his car and victim could be saved only because of the intervention of a passer-by who put his car in front of the car of the petitioner, otherwise, he would have surely killed the victim.

8. It is further submitted that due to this incident the victim has suffered



disability in his right leg and hip. It is argued that petitioner does not deserve the leniency of grant of bail.

9. As per prosecution version on 28.08.2020, upon receiving a PCR Call, IO reached at the spot at Jeevan Park bus stand where one car number DL9CAB3830 Swift was found. Co-accused Karan Sethi was found sitting in the car and on enquiry from him it was found that petitioner Durgesh Kumar Tiwari who was driver of the car ran away from the spot. However, the mobile phone of the petitioner was recovered from the car.

10. Photographs of the skid marks were taken at the scene of crime. Motorcycle number DL10SW1462 belonging to the complainant was also found near Vikaspuri Mod. Statement of the complainant was recorded wherein he stated that he and his friend Rohit were going on their Bike and suddenly car number DL9CAB3830 came towards them in a negligent manner and hit their bike.

11. Complainant came down from the bike and stood in front of the car and asked the driver to come out but the driver suddenly moved the car, in order to save himself complainant jumped on the bonnet of the car and caught hold the wiper of the car. The driver took the car towards Pankha Road and drove the car in a zig-zag manner so that complainant should fall down from the car.

12. Co-accused also instigated him to drive fast. In the meanwhile, the complainant had slipped from the bonnet of the car and he fell down from the bonnet but his leg got stuck in the car. Despite knowing this fact, petitioner did not stop the car, as a result of which complainant suffered injuries on his person.

13. Seeing the incident, one public person put his car in front of the car of



the petitioner, in order to stop him.

14. The defence of the petitioner that he was not driving the car at the time of the incident would be known during the course of the trial. At this stage, an elaborate examination of evidence and detailed reasons touching the merits of the case, which may prejudice either of the parties, needs to be avoided.

15. The investigation has revealed that petitioner had tried to run-over the complainant so much so he was dragged to some distance.

16. Even though, only three witnesses have been examined out of 25 witnesses cited by the prosecution, considering the fact that allegation are grave and serious in nature, the same would not constitute a justified ground for the grant of bail to the petitioner.

17. Keeping in view the nature and gravity of the allegations, I am not inclined to grant bail to the petitioner at this stage. The application is, therefore, dismissed. Pending applications, if any, also stand disposed-of.

RAVINDER DUDEJA, J

APRIL 2, 2025

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