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

Date of decision: 03rd March, 2025

+ **BAIL APPLN. 601/2025 & CRL.M.A. 4317-4318/2025**

RAJESH

.....Petitioner

Through: **Mr. Manoj Kumar, Advocate**

versus

THE STATE GOVT OF NCT OF DELHIRespondent

Through: **Mr. Nawal Kishore Jha, APP for the
State with SI Hemant, PS Jafrabad**

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This present bail application has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking regular bail in FIR No. 495/2024 registered at Police Station (P.S.) Jafrabad, Dist. North-East under Sections 110/115(2)/126(2)/351(2)/3(5) Bharatiya Nyaya Sanhita, 2023 ('BNS').
2. The case of the prosecution as borne out from the status report is that on 04.12.2024, a PCR call regarding a quarrel between two neighbors, who were running factories was received at PS Jafrabad, Delhi vide DD no. 57A. On reaching the spot, it was found that there was a quarrel for parking in the street in front of their factories and during the quarrel the complainant



namely Firoj and Aman¹ had received injuries. It is stated that the complainant Firoj got injuries on his face and Aman also got injuries on his head. On the basis of the statement of the complainant Firoj, the subject FIR bearing no. 495/2024 was registered on 04.12.2024 and investigation ensued. It is alleged in the FIR that three persons namely Deepak, Rajesh and Nadeem had quarrelled with the complainant Firoj and Aman.

2.1. It is stated that, accordingly, two accused persons i.e. the Applicant namely Rajesh and co-accused Deepak were arrested on 04.12.2024 and their police custody was obtained. It is further stated that during the investigation, the said Applicant correctly identified the place of occurrence of the said incident. Thereafter, the Applicant were sent to judicial custody on 06.12.2024.

2.2. It is stated that the Investigating Officer (I.O) has made several efforts to search the third co-accused person namely Nadeem, however, he has been absconding and evading his arrest. It is further stated that anticipatory bail application of the said co-accused person namely Nadeem as well stands dismissed by the ASJ Karkardooma Court, Delhi vide order dated 18.01.2025.

2.3. It is stated that upon recording the statement of other victim namely Aman and after obtaining legal opinion on the said case, therefore, Section 109 of BNS as well was added in the above said case.

2.4. It is stated during arguments that the investigation of the case qua co-accused Nadeem is still in progress and final chargesheet with respect to the Applicant and co-accused Deepak shall be filed during the course of the day.

¹ alias Nadeem



It is further stated the final opinion of the MLC's of both the victim as well is still awaited from the hospital.

Arguments of the Applicant/accused

3. The learned counsel for the Applicant states that the Applicant has been falsely implicated in the captioned FIR. He states that the Applicant is not the main accused in the case and neither he has any personal rivalry with the complainant or with another victim Aman.

3.1. He stated that the dispute which is the subject matter of the present FIR arose due to the issue between the complainant and co-accused Nadeem, with regards to parking of bike near to the loaded e-rickshaw of the complainant. He states that since the Applicant is the employee of the co-accused Deepak, who is running a factory in the same locality and since the alleged incident took place in-front of it, therefore, upon hearing the noises of the quarrel between the complainant and co-accused Nadeem, the Applicant went to the place of occurrence and tried to intervene, only to prevent the quarrel between the complainant and the main accused.

3.2. He states that the main accused in the present case is the co-accused Nadeem, however, the said person has not been traced or arrested in the matter yet despite of dismissal of his anticipatory bail application.

3.3. He states that no notice under Section 41A Cr.P.C has been served upon the Applicant by the I.O of the present FIR, which is a statutory right of the Applicant and due to the said reason the Applicant could not approach the Court for his anticipatory bail application. In this regard, he relies upon the judgment passed by **Arnesh Kumar v. State of Bihar**²

² 2014 (8) SCC 273.



3.4. He states that, as per the record, as on 20.02.2025 the Applicant has been in custody for over a period of 2 months and 15 days since he was sent to judicial custody on 06.12.2024.

3.5. He states that there is no criminal antecedent against the Applicant and as such there are no chances of the Applicant for fleeing or tampering with any evidence, if she is admitted to bail.

3.6. He states that the wife of the Applicant is at advance stage of her pregnancy and delivery is due in April. He states the Applicant is the head of the family and no other person is available in the family of the Applicant to look after his wife, therefore, keeping the Applicant in judicial custody would not only cause severe effects on the person himself but upon its wife as well.

3.7. He points out to the submission of the complainant recorded in the order dated 24.01.2025 passed by the Additional Sessions Judge-05 (Shahdara) Karkardooma Courts, Delhi ('Trial Court') wherein the second regular bail application of the Applicant was dismissed, however, it records the submission of the complainant that co-accused Nadeem is the one who attacked him and caused injuries. He also points out the to the further submission made by the complainant that he has no objection if accused/applicant is granted bail only on the ground of pregnancy of his wife.

3.8. He states the investigation stands complete against the Applicant and since the trial is likely to take a considerable time, therefore, no useful purpose would be served for keeping the Applicant in judicial custody.



3.9. He further states that the Applicant undertakes to make himself available as and when directed by this Court or as required by the police officials /IO.

Arguments on behalf of the State

4. In reply, Mr. Jha learned APP opposes the bail application of the Applicant. He states that the present case is a case involving commission of an offence of attempt to murder and the allegations levelled in the FIR against the Applicant are very serious and grave in nature.

4.1. He states that a mobile footage capturing the incident in question has been provided to the police wherein role of a third co-accused namely Nadeem is seen. He states that co-accused Nadeem is absconding and evading his arrest and therefore the Applicant ought not to be released on bail. He states that the investigation of the case qua co-accused Nadeem is still under progress. He states that co-accused Deepak and Nadeem can be seen in this footage. He states that co-accused Deepak has filed BAIL APPLN. 621/2025, which is listed today. He states that the veracity of the said footage is being verified.

4.2. He states on instructions from the IO that charge-sheet qua the Applicant and co-accused Deepak is likely to be filed during the course of the day.

4.3. He further states that if the Applicant will be enlarged on bail there are chances that the prosecution's witnesses which are yet to be recorded would be exposed to threat, coercion and/or undue influence.

4.4. He states that this is the third bail application of the Applicant and there has been no change in circumstances since the dismissal of previous



bail applications of Applicant passed by the Trial Court on 23.12.2024 and 24.01.2025

4.5. He, however, confirms that there are no other involvements of the Applicant and the investigation stands complete.

Findings and Analysis

5. This Court has considered the submission of the parties.

6. Before advertng to the facts of the present case it would be imperative to refer to the judgments of the Supreme Court on the subject matter of regular bail.

7. It is a settled principle of law that the object of judicial custody is not punitive but to secure the presence of the accused during the trial. The following observations of the Supreme Court in **Vinod Bhandari v. State of Madhya Pradesh**³, would be relevant in this regard which reads as under:

“12. It is well settled that at pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention is not supposed to be punitive or preventive. Seriousness of the allegation or the availability of material in support thereof are not the only considerations for declining bail. Delay in commencement and conclusion of trial is a factor to be taken into account and the accused cannot be kept in custody for indefinite period if trial is not likely to be concluded within reasonable time. Reference may be made to decisions of this Court in Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2005) 2 SCC 42 : 2005 SCC (Cri) 489] , State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] , State of Kerala v. Raneef [State of Kerala v. Raneef, (2011) 1 SCC 784 : (2011) 1 SCC (Cri) 409] and Sanjay Chandra v. CBI [Sanjay

³ (2015) 11 SCC 502



Chandra v. CBI, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397].”

(Emphasis supplied)

8. Further the Supreme Court in **Arnab Manoranjan Goswami v. State of Maharashtra, 2020 SCC OnLine SC 964**, has reiterated the value of the personal liberty enshrined under Article 21 of the Constitution of India. The Supreme Court further emphasized that basic rule behind the bail jurisprudent is “to bail not jail”. The Supreme Court further observed that it is our earnest hope that our courts will exhibit acute awareness to the need to expand that footprint of liberty and use of our approach as a decision-making yardstick for further cases for the grant of bail.

9. Lastly, it is also a settled law now that the nature of offences and charges involved being grave and serious cannot be the only basis for rejection of bail and the Court has to take a holistic view of the facts and circumstances [Re.: **Prabhakar Tiwari vs. State of Uttar Pradesh, (2020) 11 SCC 648**].

10. Adverting to the facts of this case, the Applicant/Rajesh has already undergone custody of 2 months and 25 days as on date and investigation qua the Applicant is complete. The complainant as well has made a statement before the learned ASJ on 22.01.2025 that he has no objection to bail being granted. The Applicant has no criminal antecedents and nothing has been pointed out to show that Applicant may tamper with the evidence or influence any witness.



11. There is also lack of clarity with respect to the contents of the video footage provided to the police and therefore no opinion is being expressed on the same at this stage of grant of bail.

12. In the present case since the investigation stands complete qua the Applicant and the chargesheet is likely to be filed today but the police is still looking for co-accused Nadeem, who is alleged to be main accused; it is apparent that the trial is likely to take time, therefore, no useful purpose would be served for keeping the Applicant in judicial custody.

13. In the opinion of this Court, after a holistic assessment of all the facts and circumstances in the said matter, it would not be prudent to keep the Applicant behind bars for an indefinite period, therefore, this Court deems fit that that Applicant be entitled to bail. As a result, the Applicant is directed to be released on bail upon providing 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, and further subject to the following conditions:

- i. Applicant will not leave the country without prior permission of the Court.
- ii. Applicant shall provide his permanent address to the Trial Court. The Applicant shall intimate the said 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 report to the concerned jurisdictional SHO on 2nd Friday of every month, at 4:00 PM, and will not be kept waiting for more than an hour. The IO will inform the jurisdictional SHO about the present order.
- vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.
- viii. The Applicant shall not threaten the witnesses or tamper with the evidence of the case.

14. 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.

15. The address of the Applicant as per the Nominal Roll is of Tehsil Bilari, Dist. Murdabad, U.P. In the memo of parties, it is mentioned that PS Kundarki is the jurisdictional police station, which has a post at Manjholi. The IO shall inform the jurisdictional SHO with respect to the passing of the present order.

16. 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.

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



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

19. 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.

MANMEET PRITAM SINGH ARORA, J

MARCH 03, 2025/hp/ms

Click here to check corrigendum, if any