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

+ **BAIL APPLN. 1028/2025**

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.....Petitioner

Through: Mr. B.S.Jakkar, Mr.
Vikram Singh Jakhar, Mr.
Neeraj Jakhar, Ms.
Bhawna Jakhar, Mr. Viraj
Rathee, Mr. Shubham
Dabas, Ms. Chetna
Sharma and Ms. Shruti
Datta, Advocates.

versus

THE STATE OF N.C.T. OF DELHIRespondent

Through: Mr. Aashneet Singh, APP
for the State with SI Vikas
Yadav, PS Badarpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

28.03.2025

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1. The present application is filed seeking regular bail in FIR No. 288/2013 dated 29.08.2013, registered at Police Station Badarpur for offences under Sections 328/380 of the Indian Penal Code, 1860. ('IPC')

2. The FIR was registered on a complaint given by the complainant Mukesh. The complainant worked as a guard at A-48 Mohan Co-operative Industrial Estate, and resided at B-1/J/5 Mohan Co-operative Industrial Estate. It is alleged that around 15 days prior to the date of the registration of FIR, the complainant encountered accused Dharmendra at a grocery shop, who was dressed in a guard uniform, and requested the complainant to help him find a job as a guard. The complainant acceded to the



request, and after having discussed the same with his contractor, the complainant helped accused Dharmendra find a job as a guard. It is alleged that on the night of 28.08.2013, after the completion of duty, accused Dharmendra arrived with some sweets claiming the same to be '*Janmashtami Prasad*', and offered the same to the complainant. It is alleged that the complainant, after consuming the sweets, lost consciousness. Thereafter, upon being awakened, the complainant learnt that accused Dharmendra had offered the sweets to 3 other guards, who upon consuming the same, were temporarily incapacitated. It is alleged that the same resulted in the theft of a Tata 407 DL-1 LR 4713 and various other items from a company at B-1/J-5.

3. On the basis of a secret information, accused Dharmendra was arrested. Further, on the basis of the disclosure statement of the accused Dharmendra, the names of the other co-accused persons including the applicant were revealed. On 25.09.2013, the applicant surrendered, and confessed to his involvement in the case along with the other accused persons.

4. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the investigation is already complete, and the applicant is no longer required in custody. He submits that the trial is not likely to conclude in the near future and prays that the applicant be enlarged on bail.

5. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the applicant is embroiled in several other cases. He submits that the applicant was previously granted bail *vide* order dated 29.05.2015, who later absconded, and was



declared a proclaimed offender on 18.04.2023. He submits that the applicant, if granted bail, is likely to abscond and consequently submits that the present application be dismissed.

6. The Hon'ble Supreme Court in catena of judgments has consistently emphasised the factors to be taken into account when considering bail application, which include: (i) the nature or gravity of the offense; (ii) the character of the evidence and circumstances unique to the accused; (iii) the likelihood of the accused evading justice; (iv) the potential impact of the release on prosecution witnesses and its societal repercussions; and (v) the probability of the accused engaging in tampering.

7. It is evident that the grant of bail should not be arbitrary or whimsical. The Hon'ble Supreme Court in ***Neeru Yadav v. State of U.P. : (2014) 16 SCC 508***, where the Court, while setting aside the bail order, made the following observation:

“16. The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that liberty is a priceless treasure for a human being. It is founded on the bedrock of the constitutional right and accentuated further on the human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilised society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilised. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to the rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the



citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law.”

8. Being conscious of the fact that individual liberty holds immense significance, it is incumbent upon the Courts to examine and evaluate, *albeit* briefly, factors such as the *prima facie* case, the severity of the crime, and the accused’s likelihood of the accused evading justice, among other considerations.

9. In the present case, it is alleged that the applicant along with the other co-accused persons were involved in the theft of Tata 407 DL-1 LR 4713 and various other items from company B-1/J-5 company. The applicant was arrested on 25.09.2013, and was thereafter granted bail by order dated 29.05.2015.

10. From a perusal of the material on record, it appears that the applicant continued to appear before the learned Trial Court for a few years. However, the applicant thereafter stopped appearing before the learned Trial Court which led to the issuance of non-bailable warrants against the applicant by order dated 26.04.2022. Subsequently, by order dated 18.04.2023, the applicant was declared a proclaimed offender. The applicant was thereafter arrested on 06.04.2024.

11. The learned counsel for the applicant has contended that the trial has not proceeded in a timely manner and is not likely to conclude in the near future. From a perusal of the record, in the opinion of this Court, the trial has been prolonged on account of the absence of the applicant. The conduct of the applicant in



absconding during the course of the trial, thus, does not entitle him to grant of bail.

12. At this stage, the learned Additional Public Prosecutor for the State pointed out that all the material witnesses have already been examined, and two witnesses are being summoned for re-examination. He is hopeful that the trial is likely to conclude within the next six to eight months.

13. Considering the aforesaid, this Court is not inclined to grant bail to the applicant at this stage. The learned Trial Court is however requested to conclude the recording of evidence expeditiously.

14. It is made clear that the observations made in the present case are only 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.

15. In view of the above, the present bail application is dismissed.

AMIT MAHAJAN, J

MARCH 28, 2025

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