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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1158/2025 & CRL.M.A. 8859/2025

ASHRAF @ ASHU @ SAIF @ GUDDUApplicant

Through: Mr. M.L. Yadav, Mr.
Harish Chand, Mr. Anant
Chittoria and Mr.
Prashant, Advs.

versus

STATE (N.C.T. OF DELHI)Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Narender Singh, PS
Chandni Mahal.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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07.05.2025

1. The present application is filed seeking regular bail in FIR No. 177/2022 dated 30.04.2022, registered at Police Station Chandni Mahal, for offences under Sections 395/397/452/341/328/511 of the Indian Penal Code, 1860 and Section 25/27 of the Arms Act, 1959.

2. Briefly stated, the FIR was registered pursuant to a complaint that one person has been caught while attempting to rob the jewellery shop owned by the complainant. It was alleged that the accused – Salman, who was apprehended by the complainant and his employees, came with four other associates and attempted to commit robbery in his jewellery shop.

3. It was alleged that accused persons were equipped with firearms. The accused – Salman was found to be in possession of



a pistol loaded with seven cartridges. It was further alleged that the accused – Salman, in his disclosure, named the applicant as one of his accomplices.

4. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

5. He submits that the applicant, at the time of his arrest in the present case, was already in custody in another FIR.

6. He submits that the responsibility of the offence in the present FIR has been fastened on the applicant solely on the disclosure statement of the accused – Salman, which is not admissible in evidence.

7. He further submits that there is no eye-witness to the said crime and no one has identified the applicant to be one of the assailants.

8. The learned Additional Public Prosecutor for the State submits that the applicant is a history sheeter.

9. He submits that the applicant has been involved in similar offences on multiple occasions and has also been convicted in one of the cases.

10. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

11. As noted above, no public witness has identified the applicant as one of the assailants.



12. The CCTV footage also does not, at this stage, show that the applicant was one of the assailants. The entire case of the prosecution rests on the disclosure statement made by the co-accused–Salman.

13. The applicant is in custody in the present case for the last two years and ten months. The applicant is charged for the offence of attempt to rob for which the maximum punishment would be on half of the term of imprisonment provided for the offence of robbery.

14. Even though the applicant seems to be involved in multiple cases, however, undisputedly, he is on bail in all the cases.

15. The Hon'ble Apex Court in the case of ***Prabhakar Tewari v. State of U.P. : (2020) 11 SCC 648*** had observed that mere pendency of several criminal cases against the accused cannot itself be the basis for refusal of bail. The same can be a factor, however, cannot a sole basis for refusal of prayer of bail.

16. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

17. The applicant also appears to be belonging to poor strata of society and has a family to take care of.

18. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:



- a. 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;
- b. The applicant shall under no circumstance leave the boundaries of the country without permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. 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;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times;
- f. The applicant upon his release, shall mark his presence with the Investigating Officer once in a week.

19. 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.

20. 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.

21. The bail application is allowed in the aforementioned terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

MAY 7, 2025/ 'KD'