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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1287/2025**

DHEERAJ @ SAMEER Applicant
Through: Mr. Vineet Jain, Adv.

versus

STATE (GNCT OF DELHI)
THROUGH SHORespondent
Through: Ms. Kiran Bairwa, APP
for the State
SI Chander Shekhar, PS-
Khyala

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
03.04.2025

CRL.M.A. 10055/2025 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present application is filed seeking pre-arrest bail in FIR No. 174/2025 dated 10.03.2025, for offences under Sections 125/ 125(a) of the Bharatiya Nyaya Sanhita, 2023 and Sections 25/27 of the Arms Act, 1959, registered at Police Station Khyala.
4. The FIR was registered on the basis of information received in relation to the gun shot injury suffered by one Ujjwal. On enquiry, the injured Ujjwal disclosed that on 09.03.2025, he along with his friends, including the applicant, had gone to Ganda Nala, back side of R-block Jhuggis, Radhubir Nagar in his car to celebrate the birthday of another friend, namely, Sanjay Yadav. He stated that he had given his pistol to Sanjay Yadav for firing in celebration, after which, Sanjay Yadav fired one round



in air and returned the pistol back to him.

5. It is alleged that the applicant took the pistol from the injured Ujjwal and fired one round in the air, however, when he tried to fire another round, the round got stuck in the barrel of the pistol. When the applicant tried to remove the round from the barrel, the bullet fired and accidentally hit the leg of the victim.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and the weapon was being carried by the injured Ujjwal in his pocket, which accidentally fired on its own, causing the injury. He submits that the applicant had no knowledge about the possession of the weapon and is unaware about its source as well.

7. He submits that even as per the prosecution, the alleged weapon belonged to the injured Ujjwal, who has also been arraigned as an accused in the present case. He submits that co-accused Ujjwal has already been enlarged on bail.

8. *Per contra*, the learned Additional Public Prosecutor for the State opposes the grant of pre-arrest bail and submits that the weapon is yet to be recovered. She submits that as per the disclosure of injured Ujjwal, the weapon used in the offence is in the possession of the applicant.

9. I have heard the counsel and perused the record.

10. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694***, the Hon'ble Supreme Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while granting pre-arrest bail and held as under:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:



- i. *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. *The possibility of the applicant to flee from justice;*
- iv. *The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. *The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail..."*

11. It is argued on behalf of the applicant that he has been falsely implicated in the present case as the weapon was being carried by the injured Ujjwal and had accidentally fired on its own. The applicant has denied any knowledge about the possession of



the weapon.

12. While the defence of the applicant will be tested during the course of the trial, at this stage, it cannot be ignored that even as per the case of the prosecution, the incident was a case of accidental firing.

13. Insofar as the question of recovery of the weapon is concerned, the only reason to believe that the weapon is in possession of the applicant is the disclosure of co-accused/injured Ujjwal. Undisputedly, the weapon belonged to the injured Ujjwal himself. It is not stated in the FIR that the applicant had taken away and kept the weapon in question with himself after it was accidentally fired.

14. At this stage, this Court does not deem it apposite to deny pre-arrest bail to the applicant merely on account of suspicion casted by the disclosure of the injured Ujjwal.

15. It is not in doubt that order for grant of pre- arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest.

16. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the opinion of this Court, the custodial interrogation of the applicant is not required in the facts of the present case.

17. No apprehension has been expressed that the applicant will evade the trial or that he has not cooperated with the investigation. Even otherwise, any apprehension regarding the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.



18. It is also relevant to note that co-accused Ujjwal has already been enlarged on bail as well.

19. In view of the above, this Court is of the opinion that the custodial interrogation of the applicant is not required. The applicant, in the event of arrest, is directed to 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 concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicant shall not leave the country without the prior permission of the learned Trial Court;
- c. 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;
- d. The applicant shall appear before the learned 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 give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

20. The present bail application is allowed in the aforesaid terms.

21. It is clarified that the observations made in the present order are only for the purpose of considering the present



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.

22. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

APRIL 3, 2025

“SS”