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

+ **BAIL APPLN. 1418/2025**

SHEHZAD ALIAS MOHD SHAZAD

.....Petitioner

Through: Mr. Arjun Singh Khurana, Advocate.

versus

STATE(NCT OF DELHI)

.....Respondent

Through: Mr. Hemant Mehla, APP for the State

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

23.05.2025

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1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from case FIR No. 452/2024 dated 23rd November, 2024, registered under Section 110 and 3(5) of the Bharatiya Nyaya Sanhita, 2023³, at P.S. Kirti Nagar. Subsequently, a chargesheet was filed and the Applicant has been charged with the offences under Sections 109(1) and 3(5) of BNS.

2. Briefly stated, the case of the prosecution is as follows:

2.1. The complainant, Sonu Kumar, a resident of Jhuggi Kamla Nehru

¹ "BNSS"

² "CrPC"

³ "BNS"



Camp, Kirti Nagar, Delhi, reported an incident involving his relative, Vishal, who had come to visit him on 22nd November, 2024. At approximately 6:00 PM, while the complainant, his sister Anjali Kumari, and Vishal were at home, Shehzad @ Mohd Shazad, the Applicant who is resident of the same locality, allegedly called Vishal outside to the street. A physical altercation is stated to have ensued. Upon hearing the commotion, the complainant and his sister came outside and allegedly witnessed the Applicant, along with two others – Rahim and Vikas – assaulting Vishal. It is further alleged that while the Applicant and Rahim restrained Vishal, Vikas pulled out a knife and stabbed him in the abdomen.

2.2. Following the assault, all three accused reportedly fled the scene. The complainant and his mother, Pinki Devi, tied a cloth around Vishal's wound and transported him to ABG Hospital, Moti Nagar, for medical treatment. Thereafter, based on the statement of the complainant, the present FIR came to be registered.

2.3. On 23rd November, 2024, acting on a tip-off, police apprehended all three accused persons, including the present Applicant, from Veerana Park near Kamla Nehru Camp, Delhi.

3. The Counsel for Applicant makes the following submissions seeking grant of regular bail:

3.1. The Applicant has been falsely implicated in the present case and has been in judicial custody since 23rd November, 2024. Further, there has been no recovery of any incriminating evidence from the Applicant's possession.

3.2. More importantly, the Victim and all other eyewitnesses confirm that the Applicant had no involvement in the alleged incident. Affidavits to this effect, on behalf of Sonu (complainant), Vishal (victim) and Anjali Kumari



(an eyewitness), have been placed on the record.

3.3. The Applicant is a young individual, approximately 19 years of age, and is the sole breadwinner of his family. Given that the charge sheet has already been filed, the Applicant has no prior criminal antecedents, and he has been in custody for nearly six months, it is submitted that no useful purpose would be served by the Applicant's continued incarceration.

4. On the other hand, Mr. Hemant Mehla, APP for the State, strongly opposes the present bail application and submits that the allegations are of a grave and serious nature. The complaint clearly discloses that it was the Applicant who called Vishal outside on the street and then during the scuffle, held back the victim along with Rahim, while Vikas stabbed him. This was further confirmed by Vishal's statement to the police officials on 25th November, 2024. Such conduct, it is submitted, falls squarely within the contours of Section 109(1) and 3(5) of BNS. Moreover, the injury caused to the victim is of a serious nature, as is evidenced from that the MLC report, received from ABG Hospital, Moti Bagh, which returns the injury as 'heinous'. Therefore, there is enough evidence from the statement of witnesses and medical report against the Applicant to deny him the liberty of bail.

5. The Court has carefully considered the rival submissions and examined the material placed on record. While the Court does not for a moment discount the gravity of the alleged offence – which involves a serious, potentially life-threatening injury, it is equally bound to weigh the overall circumstances of the case, including the stage of the proceedings, the nature of evidence currently available, and the role attributed to the Applicant.



6. Pertinently, Affidavits sworn by the complainant, the victim, and an eyewitness have been placed on record, each unequivocally asserting that the Applicant was not involved in the alleged incident and has been wrongly implicated. It is further stated that this position has been consistently conveyed to the Investigating Officer. In fact, one of the eyewitnesses who appeared before the Court through Video Conferencing mechanism, duly identified by the IO, affirmed the contents of the Affidavit, reiterating that the Applicant had no role in the commission of the offence.

7. The Applicant has been in custody for approximately six months. The investigation stands concluded and charge sheet has been filed. Thus, Applicant's custody is no longer necessary for investigative purposes. It is also pertinent that the Affidavits filed by the complainant, victim, and eyewitness, specifically disclaim any role of the Applicant in the incident. Though such post facto affidavits cannot be treated as conclusive, their evidentiary value must be weighed in the larger context of bail jurisprudence, particularly where they do not appear to be retracted.

8. Further, at this stage, the Court must be guided by the settled principles governing grant of bail. It is well established through a catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁴ Bail is not to be withheld as a form of punishment, particularly in the absence of flight risk, likelihood of tampering with evidence, or threat to witnesses. In the present case, there are no allegations that the Applicant has attempted to interfere

⁴ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



with the process of justice or influence witnesses. The Applicant is a young individual with clean antecedents and is rooted in the community.

9. In view of the totality of circumstances, this Court is of the considered opinion that a case is made out for grant of regular bail. Accordingly, the Applicant is directed to be released on bail on furnishing a personal bond in the sum of ₹25,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Successor Duty MM, subject to the following conditions:

- a. The Applicant shall appear before the Trial Court as and when directed to and shall cooperate with the trial;
- b. The Applicant shall not leave the country without the permission of the Trial Court, and whenever such an application is made, let the Complainant be also intimated about the same;
- c. The Applicant shall give his current address and contact number to the concerned IO/SHO and the Trial Court, and shall inform them in case of any change thereof. He shall also keep his mobile phone switched on at all times;
- d. The Applicant shall join and cooperate with the investigation as and when directed by the IO;
- e. The Applicant shall not directly or indirectly contact, coerce, or induce any of the prosecution witnesses.

10. 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.

11. 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.

12. The application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 23, 2025

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