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

+ **BAIL APPLN. 1445/2025**

SHIV KUMAR @SAGAR

.....Petitioner

Through: Mr. Daljeet Dhiman, Adv. (through
VC).

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State.
SI Gajal Chugh, P.S. Krishna Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

23.05.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the Cr.P.C. (under Section 483 of the BNSS) seeks regular bail in case FIR No. 721/2023, under Sections 379/382/411/34 of the IPC and Sections 59/25/27/54 of the Arms Act, registered at P.S. Krishna Nagar.
3. Status report dated 21.05.2025 authored by SHO, P.S. Krishna Nagar has been handed up in Court and taken on record. As per the aforesaid status report the case of the prosecution is as under:-

“1. That on 1/11/2023, complainant Bhavesh Shah S/o Narpat Lal R/o F-142, Garden Kirti Nagar Delhi came to Police Station Krishna Nagar and stated that at around 10:50 pm he along with his friend Vishal Shah were on their Scooty DL- 10SY0250 in A Block Krishna Nagar and searching for some address. He stated that they parked their Scooty but forgot the key in the scooty. After some time, he saw that two unknown boys wearing mask



were taking away their scooty. The scooty had a brown coloured bag containing a platinum ring weighing around 5 gms, a gold ring weighing around 3.5 gms, a loose diamond 2 Pkt weighing around 57 carats. The complainant did not chase them in the fear that they might have arms with them. On the statement of the complainant, case FIR No 721/23 u/s 379/34 IPC was registered.

2. During the course of investigation, the supplementary statement of the complainant u/s 161 CrPC was recorded wherein he stated that he works as jewellery supplier and he had got a call from mobile number 9871899593 and therefore he went to A Block Krishna Nagar. The accused had shown them the pistol and thus due to fear they could not give detailed statement at the time of registration of FIR.

3. After recording the supplementary statement of complainant, section 382 IPC & 25/27/59 IPC was added in the case.

4. The ownership of the mobile phone 9871899593 was found to be on the name of Ritu w/o Ankit Tyagi R/o 12/16 First floor Ankur Vihar UP who was interrogated who stated that her husband Ankit took the said mobile number by submitting her^[L]_{SEP} identification documents. Ankit Tyagi was interrogated who disclosed that he had given the said number to Sagar s/o Kush Pal Singh r/o B-12 Laxmi Garden Delhi who further gave the sim to his neighbour Om Saini, the co-accused.

5. Therefore on the basis of call detail & CCTV footage, accused Shiv Kumar @ Sagar r/o B-236, Vikas Kunj, Loni Gzb UP was arrested. During investigation Shiv Kumar@Sagar disclosed the name of Om Saini@ Kallu as co accused of the incident.^[L]_{SEP} He was also arrested on 21/11/23.

6. During investigation, the abovementioned scooty was recovered at the instance of the accused Shiv Kumar@ Sagar.^[L]_{SEP} A country made pistol, one live cartridge & clothes worn by the accused at the time of offence were also recovered at the instance of the accused Om Saini@ Kallu. The scooty, pistol and cartridge were seized and taken into police possession. Accused Shiv Kumar@Sagar disclosed that he alongwith his associate Om Saini had sold the platinum ring, the gold chain and loose diamonds to one Rohit. One day PC remand of accused Shiv Kumar was taken and a empty brown coloured bag was



recovered from his house.

8. The brown coloured bag that was robbed was also recovered from possession of accused Shiv Kumar, but the same was empty and the same was identified by the complainant during TIP proceedings.”

4. Learned counsel appearing on behalf of the applicant submits that initially the present FIR was registered under Section 379 of the IPC and there was no allegation of threatening the complainant by showing arms and the said FIR recorded the fact that 2 unknown persons wearing masks had taken away the scooty. It is further submitted that the chargesheet in the present case stands filed and the co-accused Om Saini @ Kallu has since been granted bail by this Court *vide* order dated 25.02.2025 in BAIL APPLN. 4175/2024 by this Court.

5. *Per contra* learned APP for the State submits that the present applicant had been identified by Vishal Shah, the friend of the complainant during the TIP proceedings and the brown leather bag which was containing the jewellery was also recovered at his instance. It is submitted that the complainant Bhavesh Shah (PW-1) and witness Vishal Shah (PW-2) have since been examined before the learned Trial Court and both of them have identified the present applicant.

6. Heard the learned counsel for the parties and perused the records.

7. In the order dated 25.02.2025 granting bail to the co-accused, this Court had observed as under:-

“8. The FIR in the present case was registered on 01.11.2023. It is clearly alleged in the FIR that two unknown persons wearing masks had taken away the scooty and therefore the FIR was initially registered under Section 379/34 of the IPC. On a pointed query, learned APP for the State, on instructions of the



Investigating Officer, submits that jewellery in the present case was never recovered. It is further stated that no investigation was conducted with respect to whether the jewellery belonging to the complainant, in fact, existed and was in the scooty and only the statement of the complainant has been relied upon. “

8. As per the prosecution's case the present applicant is similarly placed with the co-accused Om Saini @ Kallu. The main witnesses have also been examined. The nominal roll dated 13.05.2025 received from Superintendent of Prison, Central Jail No. 12, Mandoli, Delhi, shows that the applicant has been in custody since 23.11.2023 and as on 13.05.2025 has undergone incarceration of 01 year 5 months and 21 days. As per the Investigating Officer, the applicant is not involved in any other offence.

9. In totality of the facts and circumstances of the case, the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.



10. The application is allowed and disposed of accordingly.
11. Pending applications, if any, also stand disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 23, 2025/nk/pr

Click here to check corrigendum, if any