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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2577/2025**

SHASHANK

.....Petitioner
Through: Mr. Bibhuti Bhushan
Mishra, Mr. Shivam
Kumar, Mr. Dhruv
Chauhan, Mr. Annubhav
Gupta & Ms. Niharika
Punn, Advs.

versus

STATE OF NCT OF DELHI
& ORS.

.....Respondents
Through: Mr. Pradeep Gahalot, APP
for the State
SI Deepika, PS- Sonia
Vihar

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **17.04.2025**
CRL.M.A. 11548/2025 (for exemption)

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

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3. The petitioner challenges the orders dated 27.03.2025 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('ASJ'), granting pre-arrest bail to Respondent Nos. 2 to 4 in FIR No. 57/2025 dated 04.02.2025, registered under Sections 309(4)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') at PS Sonia Vihar.
4. The FIR was registered on a complaint made by the petitioner against Respondent Nos. 2 to 4 alleging that when the



applicant when reached Soni Vihar Water Plant on 20.01.2025, four persons surrounded him and snatched his mobile phone and took away his wallet. It is alleged that he was also beaten by the accused persons and chased away by them.

5. The complainant alleged that he borrowed a phone from someone and dialled 112 number and when the Police came, the accused persons had already fled away. He claims to recognize three of them who are Respondent Nos. 2 to 4.

6. The pre-arrest bail filed by Respondent Nos. 2 to 4 was opposed by the learned Additional Public Prosecutor as well as the complainant stating that the offences are heinous in nature and initially, the accused persons were absconding and did not join the investigation, despite issuance of notices under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023. It is also argued that the robbed articles are yet to be recovered.

7. The learned Trial Court, by the impugned order dated 27.03.2025, granted pre-arrest bail to Respondent Nos. 2 to 4 which has led to filing of the present petition.

8. The learned counsel for the petitioner submits that the learned Trial Court granted the bail to the accused persons on erroneous grounds. He submits that the only ground considered by the learned Trial Court was that there has been delay in registration of the FIR since the alleged offence took place on 20.01.2025 whereas the FIR was registered belatedly on 04.02.2025.

9. He submits that the petitioner on 20.01.2025, himself made a call to the Police and since they had failed to register a FIR, he had also given a complaint dated 22.01.2025 to the concerned Deputy Commissioner of Police in that regard. He submits that the delay in registering the FIR cannot be to the detriment of the



complainant.

10. The law in regard to pre-arrest bail is well settled.

11. The inclusion of Section 438 in the CrPC underscores the significance of personal liberty and freedom in a democratic society, upholding the timeless principle that every individual is presumed innocent until proven guilty by a court of law.

12. 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. In cases where the accused has joined the investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

13. The short question that falls for consideration by this court, is whether the High Court ought to exercise its discretionary power under Section 482 of the CrPC and revoke/set-aside the pre-arrest bail granted to Respondent Nos. 2 to 4 by the impugned order.

14. It is trite law that an order granting bail ought not to be disturbed by a superior court unless there are strong reasons to do so. The party seeking setting aside of an order granting bail must establish a compelling case and demonstrate that the said order was illegal, unjust or improper.

15. In the present case, the learned Trial Court noted that the accused persons are in their twenties and have already joined investigation. It was also noted that the accused persons had clean antecedents and the parties being neighbours, there seems to be some previous enmity amongst each other.

16. It is also undisputed that as per the allegations, the incident took place on 20.01.2025. Even though, *prima facie* no fault can



be attributed to the petitioner for the belated registration of the FIR, however, it cannot be denied that the registration of the FIR was, in fact, delayed. While the same cannot be to the detriment of the complainant, it can also not be to the detriment of the accused persons.

17. Even though, the concerned Investigating Officer (IO) is not present in Court and is not in a position to participate in the present proceedings, however, it can be seen that the learned Trial Court has noted that the accused persons have already joined investigation.

18. Insofar as the gravity of the offence is concerned, it is trite law that the same alone cannot be a ground to deny bail to the accused persons.

19. Bail granted to an accused can only be cancelled if the Court is convinced that, after grant of liberty the accused has either (a) misused the liberty granted, (b) flouted the conditions of the bail order, (c) the bail was granted in contravention of statutory provisions limiting the Court's authority to grant bail, or (d) the bail was obtained through misrepresentation or fraud. In the present case, none of these situations existed.

20. In such circumstances, this Court finds no reason to interfere with the impugned order and the pre-arrest bail granted to Respondent Nos. 2 to 4, do not warrant cancellation.

21. However, considering the apprehension as raised by the petitioner in regard to the accused persons misusing the liberty granted to them, this Court considers it apposite to put certain conditions in addition to the conditions as imposed by the learned Trial Court. The same are as follows:

- (iv) Petitioner will not leave the country without prior permission of the Court.



- (v) Petitioner shall provide permanent address to the Ld. Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- (vi) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- (vii) Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned. The mobile location be kept on at all times.
- (viii) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/ victim or any member of the complainant's / victim's family or tamper with the evidence of the case.

22. The present petition is dismissed with the aforesaid observations.

23. The petitioner is at liberty to approach the appropriate forum should any violation of the bail conditions occur.

24. This decision shall not prejudice the merits of the trial.

AMIT MAHAJAN, J

APRIL 17, 2025

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