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

+ **BAIL APPLN. 1547/2025**

ANKIT @ SUSHANT

.....Petitioner

Through: Ms. Neha Kumari, Mr. Rahul Vats,
Mr. Sumit Kumar, Mr. Saurabh Kr.
Singh, Advocates

versus

THE STATE

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Deepak, PS Timarpur

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

26.05.2025

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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 the proceedings arising from FIR No. 522/2024 registered at P.S. Timarpur under Sections 109(1)/3(5) of the Bharatiya Nyaya Sanhita, 2023.³

2. Briefly stated, the facts of the case of the Prosecution are as follows:

2.1. On 15th October 2024, an individual named Gaurav approached the police station, reporting that a person had been stabbed on Timarpur Road, Sanjay Basti. This information was recorded as DD No. 06A. Upon reaching the scene, the police found that the injured person had already been taken to

¹ "BNSS"

² "Cr.P.C."

³ "BNS"



the Trauma Centre, Civil Lines. The MLC of the injured person, identified as Md. Asif (the Complainant) was subsequently collected, and his statement was recorded.

2.2. The Complainant alleged that on the aforementioned date, while he was returning home from work on his two-wheeler at approximately 12:40 AM, two persons on a motorcycle approached him from behind near Shyam Basti, near Joshi Dhaba, Fateh Singh Marg. The rider stabbed him twice, in the back and in the chest, causing him to fall. The knife remained lodged in his chest. A patrolling police team spotted him and immediately rushed him to the hospital. This led to the registration of the present FIR.

2.3. During the course of investigation, CCTV footage from the relevant routes was reviewed, and secret informers were deployed. It was revealed that one Child in Conflict with Law,⁴ referred to as “D”, who had a previous record involving a murder case, had been absconding from his residence since the date of the incident. His mobile phone was also found to be switched off. Inquiries made at his residence revealed that he had changed his address shortly after the incident. The GPRS location of his mobile phone corresponded with the route seen in the CCTV footage.

2.4. On 21st October 2024, the CCL “D” was apprehended and produced before the Juvenile Court. During interrogation, he disclosed that on the night of the incident, he, along with his friend Ankit (the Applicant), had consumed alcohol at his residence. Thereafter, they left the house and took the motorcycle bearing No. No. DL-1-SAH-0528. While riding, they encountered a person on a scooty who, despite repeated honking, did not give them way and was talking on a mobile phone. Following, this they



stabbed the scooty rider.

2.5. In the course of investigation, a notice under Section 133 of the Motor Vehicles Act, 1988 was issued to ascertain the registered owner of the motorcycle. The records revealed that the motorcycle was registered in the name of Nisha Kumari, the sister-in-law of the Applicant, who informed the police that on 15th October 2024, the Applicant, had taken the vehicle citing an emergency.

2.6. On 27th October 2024, the Applicant surrendered before the court and was formally arrested in connection with the case. During interrogation, he admitted to consuming alcohol with CCL “D” and stated that the CCL had shown him a knife earlier that day, expressing an intention to kill someone. The Applicant further disclosed that he was riding the motorcycle, with the CCL seated behind. When they reached Fateh Singh Marg, Timarpur, they encountered the victim, who was not yielding way despite repeated honking. At that point, the Applicant allegedly asked the CCL to stab the victim.

2.7. During the course of investigation, the mobile phone and clothes of the Applicant were recovered. A forensic analysis of the Applicant’s mobile phone revealed chat messages exchanged with the CCL, discussing surrendering to the authorities post the alleged incident. A Test Identification Parade⁵ was conducted, in which the Complainant identified the Applicant. Additionally, the IPDR confirmed the presence of the CCL at the crime scene at the relevant time.

2.8. The mobile phones of both the CCL and the Applicant, as well as the medical exhibits, were sent to FSL for further examination, the results of

⁴ “CCL”

⁵ “TIP”



which are awaited.

2.9. Upon completion of the investigation, the Police Investigation Report (PIR) and the chargesheet were filed before the competent court.

3. In the aforesaid background, counsel for the Applicant urges the following grounds, seeking grant of bail:

3.1. The Applicant has been falsely implicated in the present case. The act of the alleged stabbing was carried out by the co-accused, a Child in Conflict with Law, who was the pillion rider on the motorcycle. While the Applicant was acquainted with the co-accused, he had no prior knowledge or indication that the latter intended to commit such an offence.

3.2. The Applicant has a clean criminal record and has never been previously involved in any criminal activity. The entire act constituting the alleged offence was carried out by the co-accused, who is a juvenile.

3.3. No recovery of any weapon, blood-stained clothing, or other incriminating material has been made from the possession of the Applicant during the course of investigation.

3.4. The investigation in the present matter has been completed, and the chargesheet has already been filed before the competent court. Hence, the continued incarceration of the Applicant is not warranted, and would amount to punitive detention.

3.5. The Applicant had no role in instigating, aiding, or abetting the co-accused in the commission of the offence. In the absence of any overt act, instigation, or prior knowledge on part of the Applicant, the charge under Section 307 IPC, which requires specific *mens rea*, is not sustainable against him.

3.6. The Applicant is employed as a salesperson at a wallet shop and is the



sole breadwinner for his family, earning a modest daily wage of INR 745/-. His family is entirely dependent on his income. Additionally, the Applicant's mother is suffering from an advanced stage of cancer and is in urgent need of his care and financial support.

4. Mr. Amit Ahlawat, APP for the State, on the other hand, strongly opposes the present bail application. He submits that, as per the disclosure statement of the co-accused (CCL) as well as the confessional statement of the Applicant, it is evident that both the accused persons had conspired and intended to commit the act of stabbing. Thus, the Applicant cannot feign ignorance or plead innocence in the matter. It is further submitted that the conduct of the Applicant, particularly his act of absconding from the scene immediately after the incident, demonstrates his guilt. The GPRS location of the Applicant's mobile phone, corroborated by CCTV footage from the relevant area, clearly places him at the scene of the offence. Additionally, the statement of the Complainant and his identification of the Applicant during the TIP further implicate him in the offence. It is also submitted that the motorcycle used in the commission of the crime has been recovered, and is registered in the name of the Applicant's sister-in-law, thereby further linking the Applicant to the crime. Accordingly, he submits that the Applicant should not be released on bail.

5. The Court has carefully considered the rival contentions advanced by the parties. From a *prima facie* assessment of the facts narrated above, it appears that the Applicant was driving the motorcycle at the time of the alleged incident, while the co-accused, CCL "D", was seated as the pillion rider. The actual act of stabbing has been specifically attributed to the co-accused and not to the Applicant.



6. The implication of the Applicant in the present case is premised on Section 34 of the IPC, which contemplates liability for acts done by several persons in furtherance of a common intention. Whether the Applicant shared the requisite *mens rea* or played any role in instigating or facilitating the act is a matter that will require appreciation of evidence during trial. It is the Prosecution's case that the act of stabbing was completely random, allegedly committed without any discernible motive and driven by perverse pleasure or other unexplained reasons. However, the determination as to whether such an act could fall within the scope of "common intention" under Section 34 IPC, implicating the Applicant, is an issue to be determined at the time of trial.

7. It is well established through 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.⁶ In the present case, the Applicant is a young individual, aged 21 years, currently employed as a salesperson at a wallet shop, earning modest daily wages of INR 745/-. He has no prior criminal record and no antecedents to his discredit. The Applicant voluntarily surrendered before the concerned court, thereby demonstrating his willingness to cooperate with the investigation and legal proceedings. Furthermore, the Applicant's mother is undergoing treatment for Stage III cancer and is in urgent need of his physical, emotional, and financial support. In light of the aforesaid context, this Court is reminded of the recent decision of the Supreme Court in *Javed Gulam Nabi Shaikh v. State of*

⁶ Sanjay Chandra v. CBI, (2012) 1 SCC 40; Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51.



Maharashtra,⁷ where the Court observed:

“Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.”

8. In light of the above and having regard to the young age of the Applicant, his clean antecedents, and the grave medical condition of his mother requiring his care and support, the Court is inclined to allow the Applicant's request for release on bail, subject to appropriate conditions. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 20,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;

⁷ (2024) 9 SCC 813.



- 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, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- g. The Applicant shall report to the concerned PS on first Friday every three months;
- 9. 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.
- 10. 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.
- 11. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 26, 2025/ab