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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1582/2025**

NISHANT SINGH

.....Applicant

Through: Ms. Manisha Parmar,
Ms. Shreya Bhola, Ms.
Anjali Lohiya & Mr.
Shubham Jindal, Advs.

versus

STATE, NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP for
the State
SI Sandeep Kumar, PS-
Mansarovar Park
Mr. Sacchin Puri, Sr. Adv.
with Mr. Rahul Verma, Mr.
Kunal Malhotra, Mr. Ajay
Verma, Mr. Harsh
Vardhan, Mr. Akash Gahlot
& Mr. Dhan Singh, Advs.
for complainant

+ **BAIL APPLN. 1583/2025**

ABHISHEK

..... Applicant

Through: Ms. Manisha Parmar,
Ms. Shreya Bhola, Ms.
Anjali Lohiya & Mr.
Shubham Jindal, Advs.

versus

STATE, NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP for
the State
SI Sandeep Kumar, PS-
Mansarovar Park
Mr. Sacchin Puri, Sr. Adv.
with Mr. Rahul Verma, Mr.
Kunal Malhotra, Mr. Ajay
Verma, Mr. Harsh
Vardhan, Mr. Akash Gahlot



& Mr. Dhan Singh, Adv.
for complainant



CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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25.04.2025

CRL.M.A. 12506/2025 (for exemption) in BAIL APPLN. 1582/2025

CRL.M.A. 12508/2025 (for exemption) in BAIL APPLN. 1583/2025

1. Exemptions allowed, subject to all just exceptions.
2. These applications stand disposed of.

BAIL APPLN. 1582/2025 & CRL.M.A. 12505/2025 (for interim protection from arrest)

BAIL APPLN. 1583/2025 & CRL.M.A. 12507/2025 (for interim protection from arrest)

3. The present applications have been filed seeking pre-arrest bail in FIR No. 100/2025 dated 15.02.2025 for offences under Sections 110/115(2)/126(2)/351(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') registered at Police Station Mansarovar Park.

4. The FIR was registered pursuant to a complaint given by one of the injured victims against 10-12 people alleging that they had mercilessly beaten him and his relatives with heavy objects, with an intention to kill them, pursuant to which grievous injuries have been caused to them. It was alleged that the accused persons also robbed certain gold articles from the victims. The incident of the attack was also captured in a CCTV footage which was filed along with the Report submitted by the State, whereafter Section 109 of the BNS was added in the FIR.

5. The learned counsel for the applicants, however, submits



that the CCTV footage was privately shot by one of the victims. As noted by the learned Court of Sessions, the footage shows large number of accused persons attacking the victims brutally and mercilessly.

6. The perusal of the FIR indicates that some of the victims and accused persons were neighbours and initially they appeared to have entered into a scuffle over a trivial issue.

7. During the course of arguments, certain photographs have been handed over and it is pointed out that one of the victims has received 23 stiches as a result of the injuries and one victim has suffered serious injuries in his eyes.

8. One of the accused persons was admitted on pre-arrest bail by this Court *vide* order dated 23.04.2025 on a peculiar circumstance that he was to get married on 30.04.2025 and purely on humanitarian grounds, his application was allowed by putting some strict conditions. It was further observed therein that the said order shall not be taken as a precedent in regard to the bail applications that may be filed by the other accused persons.

9. The learned counsel for the applicants submits that the incident took place in the spur of the moment and, therefore, Section 109 of BNS has been wrongly invoked. Even if the argument raised by the learned counsel for the applicants is accepted, at this stage, the applicants would still be alleged to have committed an offence under Section 117(2) of the BNS for which the punishment extends up to imprisonment of seven years. The offence in the present case cannot be called minor in nature.

10. The learned counsel for the applicants further submits that one of the victims was a practising Advocate and, therefore, had influenced the Police for registration of the FIR for a graver offence. The said argument by its very nature is without any



merits.

11. It is trite law that the power to grant a pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of **State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104**, held as under:

"8.A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

"5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal."

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

"The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest."

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order."



12. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the CrPC [***State v. Anil Sharma : (1997) 7 SCC 187***]. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

13. In the present case, it appears that the victims were brutally beaten by the accused persons which has resulted in serious injuries as noted above. The applicants herein have also been named by the complainant in the FIR.

14. Moreover, it is pointed out that when efforts were being made to search for the accused persons including the applicants herein, through notices, technical surveillance and local inquiries, they remained absconding, and therefore, there is a high possibility of the applicants threatening and influencing the victims, if the present application is allowed.

15. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

16. Considering the material on record, it cannot be held at this stage that the investigation is being carried out with the intention to injure or humiliate the applicants. The nature and gravity of allegations are serious.



17. The investigation conducted so far does not indicate that the applicants are sought to be falsely implicated. The material presented by the prosecution establishes a *prima facie* involvement of the applicants. Granting pre-arrest bail to the applicants would undoubtedly impede further investigation.

18. Considering the above, and the nature of the offence, no ground for grant of pre-arrest bail to the applicants is made out.

19. The present applications are accordingly dismissed.

20. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications 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.

21. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 25, 2025

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