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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1576/2025

SANTOSH KUMAR BHARTI

.....Petitioner

Through: Mr. Faiz Imam and Mr. Niraj Kumar
Singh, Advocates.

versus

STATE OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with Geetam Singh, SI, PS-Badarpur.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

01.07.2025

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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 emanating from FIR No. 494/2024 registered under Sections 109(1)/3(5) of the Bharatiya Nyaya Sanhita, 2023³ at P.S. Badarpur.

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

2.1. On 8th October, 2024, HC Natvar Singh received a PCR call *via* DD No. 119A regarding a stabbing incident. The caller, Sachin Gupta @ Monu, stated that his brother, Aman @ Binna, had been stabbed by Sarvesh Bharti @ Ritik @ Tamatar, Usman @ Naushad and Santosh (the Applicant) near Tuglakabad Metro Station. Aman was admitted to AIIMS Trauma Center by Sachin. HC Natvar Singh reached the hospital where Aman was found unfit for statement. The MLC recorded "*A/H/O Assault by 2 Known Assailants*

¹ "BNSS"

² "Cr.P.C"

³ "BNS"



Using Sharp Object (Knife) at 8:30 PM on 8/10/2024 Near Tuglakabad Metro Station,” with nature of injury “Pending Investigation.”

2.2. On 10th October, 2024, HC Natvar Singh visited AIIMS Trauma Centre again to record Aman’s statement, but the victim continued to be medically unfit. Subsequently, the Complainant, Sachin Gupta, approached the police station and submitted a written statement, disclosing that co-accused Sarvesh had a history of conflict with the Complainant’s brothers, Prabhakar and Aman. He alleged that Sarvesh had in fact, previously assaulted Aman two years prior.

2.3. The Complainant further alleged that on 3rd October, 2024, around 6:00 PM, Sarvesh allegedly abused and physically assaulted Prabhakar following a verbal altercation. On 8th October, 2024, around 8:30 PM, while Aman and others were at Tughlakabad Metro Station, Sarvesh, Usman and the Applicant again confronted them, and allegedly abused and assaulted Aman. Sarvesh then pulled out a knife and, with assistance from Usman and the Applicant, stabbed Aman multiple times before fleeing. Aman was bleeding profusely and with Rahul’s help, the Complainant rushed him to AIIMS Trauma Centre and contacted the police. Accordingly, the present FIR was registered and the investigation was commenced by SI Onkar (the Investigating Officer).

2.4. SI Onkar, accompanied by HC Natvar, HC Hargovind, and the Complainant, visited the crime scene and prepared a site plan based at the instance of the Complainant. Acting on a tip-off from a secret informer, the police team proceeded to Decorated Park, Mathura Road, Badarpur, where, on the Complainant’s identification, the Applicant was apprehended and arrested.



2.5. During interrogation at P.S. Badarpur, the Applicant confessed to his involvement and disclosed that he, along with Usman, had held Aman's hands while Sarvesh inflicted the stab injuries. A supplementary statement of the Complainant under Section 180 BNSS was recorded thereafter.

2.6. Subsequently, accused Sarvesh surrendered himself at P.S. Badarpur. He confessed to stabbing Aman and confirmed that Usman and the Applicant had restrained Aman during the assault. His confession was made in the presence of HC Hargovind, following which he was formally arrested in connection with the offence.

2.7. On 12th October, 2024, SI Onkar, accompanied by HC Hargovind and accused Sarvesh, proceeded to the place of occurrence of the alleged offence. The weapon of offence, *i.e.*, a knife was recovered at the instance of Sarvesh, and he was produced before the competent Court, which remanded him to judicial custody. His medical examination was conducted at AIIMS, *vide* MLC No. 6738/2024. Relevant exhibits were seized and taken into police custody through proper seizure memos.

2.8. The recovered weapon, along with blood samples of co-accused Sarvesh and victim Aman, were sent for forensic examination. The FSL report is currently awaited.

2.9. On 18th October, 2024, victim Aman joined the investigation. His statement under Section 180 BNSS was recorded, wherein he corroborated the Complainant's version and confirmed that Sarvesh had stabbed him while Usman and the Applicant held him down. Statement of Rahul under Section 180 BNSS was also recorded. He confirmed that he, along with Sachin, assisted Aman in getting admitted to AIIMS Trauma Centre on the night of the incident.



2.10. A notice under Section 94 of BNSS was served upon the Chief Medical Officer/In-charge, M.R.D. Section, AIIMS Trauma Centre, New Delhi. In compliance, a medical opinion was obtained on the MLC of victim Aman, opining that: *“Considering all the findings as mentioned in MLC Report, all X-Ray and all CT Reports and hospital notes, I am of the opinion that injuries sustained by Mr. Aman are GRIEVOUS in nature and could have been caused by sharp object.”*

2.11. The Applicant’s previous requests for bail have been denied by the concerned courts on multiple occasions.

3. Counsel for the Applicant urges that the Applicant has been falsely implicated and submits the following in support of his request for bail:

3.1. On the date of the alleged incident, *i.e.*, on 8th October, 2024, the Applicant was at his residence with his family members. The location of the alleged incident is approximately 10 kilometres away from the Applicant’s home. Hence, the allegation that the Applicant was present at the scene is unfounded.

3.2. The Applicant’s name does not appear in the MLC report, which merely records a history of *“assault by two known assailants.”*

3.3. The sole allegation against the Applicant is that he allegedly held the victim during the incident. The act of stabbing has not been attributed to him. Moreover, no incriminating material has been recovered from his possession or at his instance.

3.4. Co-accused Usman, who is alleged to have played a similar role and faced identical accusations, has already been granted bail by this Court on 23rd May, 2025, entitling the Applicant to bail on the principle of parity.

3.5. The investigation is complete and the chargesheet has been filed, and



thus, no fruitful purpose would be served to keep the Applicant in custody.

3.6. The Applicant has no prior criminal record and undertakes to comply with all conditions that may be imposed by this Court in the event that bail is granted.

4. *Per contra*, Mr. Mukesh Kumar, APP for the State, strongly opposes the bail application. He submits that the offence committed against the victim is grave and serious. He argues that the evidence gathered during the investigation, including the statements of the Complainant, Sachin Gupta, and medical records, clearly implicate the Applicant under Sections 109(1)/3(5) of BNS for abetment and active participation in a premeditated grievous assault. It is contended that the Applicant was present at the scene along with the co-accused and actively assisted in restraining the victim while Sarvesh stabbed him. The Prosecution further asserts that if released on bail, there is a significant risk that the Applicant may influence witnesses or tamper with evidence.

5. The Court has duly considered the aforementioned facts and submissions. Upon perusal of the charge sheet and the status report submitted by the State, it emerges that the role attributed to the Applicant is that he, along with co-accused Usman, restrained the victim by holding his hands, while co-accused Sarvesh Bharti allegedly inflicted injuries by stabbing the victim with a knife. Thus, the specific role assigned to the Applicant is confined to holding the victim's hands during the alleged incident of stabbing. The Court is cognizant that Section 3(5) of the BNS has been invoked in the present case, and given that the offence was allegedly committed with a common intention, the specific roles of the individual assailants may be rendered immaterial. Nonetheless, it is pertinent to note that co-accused



Usman, against whom an identical role has been alleged, has already been granted bail by this Court *vide* order dated 23rd May, 2025. In fact, in the said proceedings, the victim had appeared in person before this Court on 29th April, 2025 and expressly stated that he had not levelled any allegations against co-accused Usman. While the veracity of this statement would be established during the course of trial, however, the inconsistency between the version of events set out in the FIR and the statements of the Complainant and victim, as compared to the statement made before this Court, raises a doubt regarding the credibility of the Prosecution's case. Moreover, the role attributed to the Applicant is identical to that of Usman, and the allegations against both the accused stand on the same footing. Accordingly, in the opinion of the Court, the Applicant's claim for grant of bail on principle of parity has merit.

6. Furthermore, the investigation in this case stands concluded and the chargesheet has already been filed. Therefore, the Applicant's presence for investigative purposes is no longer warranted, and his continued incarceration would amount to punitive detention. Furthermore, the Applicant has no criminal antecedents. Thus, having regard to the totality of circumstances, the Court finds this to be an appropriate case for the grant of bail, subject to the imposition of suitable conditions.

7. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM/ Jail Superintendent, on the following conditions:



- a. 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;
 - b. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
 - c. The Applicant shall appear before the Trial Court as and when directed;
 - d. 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;
 - e. 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.
8. 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.
9. 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.
10. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

JULY 1, 2025/nk