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

+ **BAIL APPLN. 1631/2025, CRL.M.A. 12911/2025**

USMAN @ NAUSHADPetitioner

Through: Appearance not given.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Amit Ahlwat, APP with Mr. Sharlee, Mr. Neeraj, Advs. with Insp Jeet Singh, SHO Sarita Vihar

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **23.05.2025**

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 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. A copy of the status report has been handed over across the Board and is taken on record.

3. Briefly, the case of the prosecution is as follows:

3.1 On 8th October, 2024, HC Natvar Singh received a PCR call via DD No. 119A regarding a stabbing incident. The caller, Sachin Gupta @ Monu,

¹ "BNSS"

² "Cr.P.C"

³ "BNS"



stated that his brother, Aman @ Binna, had been stabbed by Sarvesh Bharti @ Ritik @ Tamatar, Santosh, and Usman @ Naushad (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 Using Sharp Object (Knife) at 8:30 PM on 8/10/2024 Near Tuglakabad Metro Station,*” with nature of injury “*Pending Investigation.*”

3.2 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, stating that he had two brothers, Prabhakar and Aman. He described past enmity with one Sarvesh Bharti @ Ritik @ Tamatar, an auto-rickshaw driver operating between Tughlakabad Metro and Molarband, who had previously assaulted Aman two years prior. On 3rd October, 2024, around 6:00 PM, Sarvesh allegedly abused and physically assaulted Prabhakar following a verbal altercation. According to the Complainant, Sarvesh, along with the Applicant and others, threatened him and his brothers with dire consequences should they approach the police.

3.3 On 8th October, 2024, around 8:30 PM, while Aman and others were at Tughlakabad Metro Station, Sarvesh, his brother Santosh, and the Applicant again confronted them. They allegedly abused and assaulted Aman. Sarvesh then pulled out a knife and, with assistance from Santosh and the Applicant, stabbed Aman multiple times before fleeing. Aman was bleeding profusely and with Rahul’s help, Sachin 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).

3.4 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, accused Santosh Bharti was apprehended and arrested.

3.5 During interrogation at PS Badarpur, Santosh confessed to his involvement and disclosed that he, along with the Applicant, had held Aman's hands while Sarvesh inflicted the stab injuries. A supplementary statement of the complainant under Section 161 Cr.P.C. was recorded thereafter.

3.6 Subsequently, accused Sarvesh surrendered himself at P.S. Badarpur. He confessed to stabbing Aman and confirmed that his brother Santosh 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.

3.7 On 12th October, 2024, SI Onkar, accompanied by HC Hargovind and accused Sarvesh, proceeded to M1 Tower, Faridabad Bypass, Sector-37, Faridabad, Haryana. At Sarvesh's instance, the weapon of offence i.e. a knife, was recovered. Sarvesh 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.

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

3.9 On 18th October, 2024, victim Aman joined the investigation. His statement under Section 161 Cr.P.C. was recorded, wherein he corroborated Sachin's version and confirmed that Sarvesh had stabbed him while Santosh and the Applicant held him down.

3.10 Statement of Rahul under Section 161 Cr.P.C. 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.

3.11 The Applicant also surrendered at PS Badarpur and confessed to his involvement in the presence of HC Hargovind. He was arrested accordingly and his disclosure statement was recorded. Thereafter, he was produced before the competent Court and remanded to judicial custody.

3.12 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."*

3.13 The Applicant's previous request for bail has been denied by the Sessions Court by order dated 7th March, 2025.

4. Counsel for the Applicant urges that the Applicant has been falsely



implicated and submits the following in support of his request for bail:

4.1 On 3rd October, 2024, a dispute arose between the victim's brother, Prabhakar, and Sarvesh and Sunny regarding the boarding of passengers in an auto-rickshaw. During this altercation, Prabhakar sustained injuries to his eye and head. Though the incident was reported to the police and a complaint was lodged, no action was taken.

4.2 Subsequently, on 8th October, 2024, another confrontation occurred between Sachin and Sarvesh. It is alleged that Santosh and Sarvesh assaulted Aman and inflicted a stomach injury. On the same day, the Applicant had brought Sarvesh to the location on his motorcycle but was unaware of Sarvesh's intent or any plan to assault the victim. After the assault, Sarvesh fled from the scene.

4.3 The Applicant claims to have taken the injured Aman to AIIMS Trauma Centre in an auto-rickshaw and made every possible effort to save his life. It is submitted that the main allegation of stabbing is attributed solely to co-accused Sarvesh. The Applicant's alleged role is limited to "holding the hands" of the victim, a claim that is vague, lacks corroboration from independent witnesses, and is unsupported by CCTV footage or medical evidence.

4.4 The investigation is complete and the chargesheet has been filed, thus no fruitful purpose would be served to keep the Applicant in custody.

4.5 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.

5. *Per contra*, Mr. Amit Ahlawat, 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 Applicant is attempting to portray himself as a mere bystander or helper, however, 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. Moreover, the Applicant's conduct after the incident does not exonerate him from his role in the commission of the offence.

6. The Court has considered the afore-noted facts and contentions. Although the statements of the prosecution witnesses are yet to be recorded, it is noteworthy that the injured victim personally appeared before this Court on 29th April, 2025, and unequivocally stated that he has not made any allegation against the present Applicant. According to the victim, the Applicant's role was confined to merely bringing the co-accused persons to the spot on his two-wheeler.

7. Since the victim is yet to be examined in trial, the Court refrains from making any conclusive observations on the probative value or credibility of the aforesaid statement. However, it does *prima facie* suggest that the victim does not attribute any direct involvement in the act of assault to the Applicant.



8. It is also pertinent to note that, as per the latest Nominal Roll, as on 19th May, 2025, the Applicant has remained in judicial custody for a period of 5 months and 12 days. Since the investigation stands concluded and the chargesheet has already been filed, his presence for investigative purposes is no longer warranted. 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.

9. 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.

10. 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.

11. 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.

12. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 23, 2025/neha