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

+ **BAIL APPLN. 1683/2025**

JATIN KUMAR

.....Petitioner

Through: Mr.Pradeep Chowdhary, Mr.Vikrant
Chowdhary and Mr.Gaurav Kapoor,
Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr.Sanjeev Sabharwal, APP for the
State

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

10.09.2025

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1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 04.11.2023 in a criminal case arising out of FIR No. 0035/2023 dated 05.02.2023 for the alleged offences punishable under Sections 326 and 34 of the IPC, registered at Police Station Moti Nagar.

2. Briefly speaking, per FIR, on 03.02.2023 the complainant, along with his friends Balwinder @ Titu and Kishan, were on the way to Ramesh Nagar Metro Station, where Balwinder was waiting for someone. Around 10:30 P.M., a boy on a white Scooty allegedly arrived and started arguing with Balwinder. During the altercation, Kishan was slapped by the boy, and the complainant got down from the car intending to pacify the matter. That two more persons allegedly arrived at the spot, caught hold of the complainant



from both sides, and a third person inflicted a blow with a sharp object on the left side of his chest. That during the incident, the assailants were allegedly calling the Scooty rider by the name “Jatin” (present applicant), who along with the other two persons fled from the scene after causing injuries.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would *inter alia* argue as below:-

4.1 That the applicant/accused has been in judicial custody since 04.11.2023, for about 1 year and 9 months, and has already undergone substantial incarceration.

4.2 That the investigation against the applicant/accused stands concluded, the charge sheet has been duly filed and charges have been framed before the learned trial court. Hence, no further custodial interrogation is required.

4.3 That the FIR was initially registered under Section 324 IPC when the MLC opined the injury to be simple. Only at a later stage was Section 326 IPC incorporated, without any cogent reasoning or medical basis for the change.

4.4 That there is an unexplained delay of two days in registration of FIR. Furthermore, the MLC prepared by Kalra Hospital records the complainant’s own statement as having been assaulted by unknown persons (2-3), which contradicts his subsequent version implicating the applicant.

4.5 That the medical record itself suffers from material contradictions as initially the injury was described as simple, later altered to grievous without proper reasoning. The doctor has not explained the depth, breadth, or impact of the wound, nor whether any vital organ was damaged. In absence of



proper medical opinion, the categorisation of the injury as “grievous” is highly doubtful.

4.6 That even the ocular and medical evidence do not corroborate each other. The complainant himself has given contradictory statements: in the FIR, in his supplementary statement under Section 161 CrPC, and in his chief examination recorded before the trial court.

4.7 That the prosecution has failed to explain or investigate the injuries sustained by the father of the applicant/accused, who had also filed complaints before the police, and whose MLC from DDU Hospital has been placed on record as Annexure A5. This glaring omission casts serious doubt on the prosecution story.

4.8 That there are material variations in the prosecution case regarding the number of assailants and the role of other accused persons. Even in his court testimony, the complainant admitted that his friend Balwinder threw away the alleged weapon and that he has been receiving threats from the said friend, further weakening the prosecution’s case.

4.9 That the weapon of offence has not been recovered. In absence of recovery and any medical opinion linking a specific weapon, the correct section applicable would be Section 325 IPC (voluntarily causing grievous hurt), which is bailable.

4.10 That the applicant/accused has clean antecedents, is an innocent young man, and continued incarceration will cause irreparable damage to his future.

4.11 That there is no apprehension of the applicant/accused absconding or tampering with evidence, if released on bail. The applicant undertakes to appear before the trial court as and when directed, and is ready to furnish



sound sureties.

5. Opposing the above submissions, the learned APP for the state argues that the applicant is not entitled to any relief at this stage, as there remains a genuine risk of him absconding, influencing or intimidating witnesses, and tampering with crucial evidence. If released on bail, he may attempt to evade judicial proceedings. An earlier regular bail application was dismissed by the Ld. ASJ, West, Tis Hazari Courts *vide* order dated 07.02.2025.

6. Having heard, I am of the view that there may be some substance in the arguments addressed on merits by the learned counsel for the applicant but the same are a matter of trial. However, at this stage, in light thereof, it is otherwise a fit case for bail. Let us see how.

7. In course of the hearing, my attention has been drawn to the testimony of the victim (the same has been tendered in course of hearing and taken on record) wherein he has not attributed any role to the applicant. Rather, he has stated that he does not know who had inflicted the grievous injury of hitting with ice pick on him. In fact, he does not even whisper about the applicant herein *qua* the same that he gave him the blow with ice pick. He took names of one Balwinder and Kishan, specifically attributing the said act and also further stated that it is them who had thrown the ice pick in the drainage after causing the injury.

8. Learned APP for the State is unable to verify the aforesaid testimony as he was not provided copy thereof by the IO.

9. Be that as it may, in case the aforesaid testimony is found to be incorrect, the prosecution is at liberty to seek cancellation of bail granted to the applicant *vide* instant order as well as also proceed against the applicant for perjury.



10. The applicant has already remained in custody since 04.11.2023, for more than 1 year and 9 months, and the trial is moving at a snail's pace. This prolonged pre-trial detention, coupled with the slow progress of proceedings, are contributory factors for bail.

11. As regards the apprehension of tampering with evidence, it is pertinent to note that the material evidence has already been seized and is securely in the custody of the prosecution, rendering such apprehension illusory. One of the primary objects of bail is merely to secure the presence of the accused during trial. There is nothing on record to suggest that he would abscond, interfere with evidence, or influence witnesses. Applicant has deep roots in society and no criminal antecedents and hence, not a flight risk.

12. Further continued incarceration would serve no useful purpose, especially when the trial is not likely to conclude in the near future. A prolonged pre-trial detention becomes punitive even before conviction, and violates the fundamental rule i.e. bail is the rule and jail the exception, particularly when the accused does not pose a flight risk or a threat to the fairness of the trial.

13. As an upshot and taking a wholesome view of the matter, I am of the view that it is a case of bail at this stage.

14. Thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any



manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 10, 2025
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