



\$~1

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

% ***Date of decision: 28th July, 2025***

+ **BAIL APPLN. 1869/2025, CRL.M.A. 15111/2025**

NITISH KUMAR SONIPetitioner

Through: Mr. C. M. Thapliyal, Mr. S. P. Paul,
Ms. Kanchan Thapliyal, Mr. Ruhul
Amin and Ms. Kiran Lata Pal,
Advocates.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Utkarsh, APP for the State with
SI Pardeep, PS: Mehrauli.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. First Bail Application under Section 483 of the Bhartiya Nagrik Suraksha Sanhita ("BNSS") has been filed by the Petitioner / Applicant Nitesh Kumar Soni for grant of Bail in case FIR No.0413/2020 under Sections 302/201/506/120B/34 IPC and Sections 25/27/54/59 Arms Act registered at P.S.: Mehrauli, New Delhi.

2. It is submitted that the Applicant has been falsely implicated in this case and he was arrested on 29.05.2022. The chargesheet has already been filed and all material witnesses have also been examined. PW-3 Kartik Kumar has failed to support the case of the prosecution, as he was unable to say how the deceased sustained injuries. He was also unable to identify the Applicant in the Court. In his cross-examination, he denied that he had described the manner of incident or the gun shot to PW-2, wife of deceased.



3. As per testimony of PW-3 Kartik Kumar, he had asked the injured Mukesh about the incident, but was told that he is fine and going to Hospital. The witness also deposed that injured told him that he should not disclose this fact to anyone. Had any of the accused fired at the deceased, he definitely would have disclosed this fact of injury and about the assailants to PW-3, who was is employee.
4. PW-2 Neetu, wife of deceased, in her testimony deposed that she was informed by the deceased that he had been shot by the accused persons and has been contradicted by the testimony of PW-5 Raju, who in his examination in chief deposed that the deceased had told him that, accidentally the gun in the hand of Mubin fired and he sustained injuries. As per MLC of the deceased, he was unconscious at the time of admission in Hospital and the Doctor had opined him unfit for statement. The story of prosecution is that the deceased had not informed anyone about the incident is totally false.
5. All the material public witnesses have been examined and only the Police witnesses remain. The Applicant has earlier filed a Bail Application before this Court, but the same was withdrawn on 22.07.2024 with liberty to approach as and when the witnesses namely Pankaj and Chandan were examined. These witnesses have now been examined and they have not supported the case of the Prosecution.
6. The Applicant then filed Bail Application before the learned ASJ, who dismissed the same vide Order dated 30.04.2025. The Applicant further submitted that he was granted interim bail for the marriage of his sister and had not breached any condition imposed and surrendered before the Jail Superintendent on time. He intends to abide by any terms and conditions



that may be imposed on him by this Court while granting bail. Therefore, prayer is made that he be granted bail.

7. **Status Report** has been filed on behalf of the State, wherein it is submitted that on the intervening night of 27/28.05.2020, information was received at Police Station vide DD No.6A from AIIMS Trauma Centre about the admission of one Mukesh S/o Devender, who had suffered a gunshot injury. The inquiry was entrusted to SI Saumya, who along with HC Bir Singh went to AIIMS Hospital, where he found the injured admitted with gunshot in his stomach, who was declared unfit for statement by Doctors. The MLC of the injured was collected, which mentioned 'Gun Shot injury in right side of abdomen' and the case was initially registered under Section 307 IPC and Sections 27/54/59 Arms Act. During investigation, Mubeen was interrogated who had brought the patient to the hospital. But he was not comfortable answering the questions and was regularly changing his statements. The statements of the wife and employee of the injured were also recorded.

8. Mrs. Neetu Singh wife of deceased, stated that on the night of 27.05.2020 at around 11:00 PM, she went to see her husband at water plant. There he was drinking with Mubeen, Nitesh, Salman @ Kalua and Bhindi. She used to know that they all were friends and used to drink alcohol with each other and were local residents of Mehrauli. When she asked her husband to come home, he shouted upon her and told her to go back. After some time, their servant namely Kartik informed her that Mubeen, Nitish, Salman @ Kalua and Bhindi had shot Mukesh with gun.

9. The statement of servant Kartik Kumar was also recorded, who



detailed the entire incident, how Mukesh was shot by Mubeen. The Guard present in the street also saw them. Mubeen was again interrogated, wherein he admitted his involvement in the commission of the crime and he was arrested and on his instance, co-accused Nitin (Petitioner herein), Salman @ Kalua and Bhindi were arrested, who disclosed about the commission of the offence. The injured expired on 29.05.2020 and Section 302 IPC was appended in the FIR instead of Section 307 IPC.

10. It is further submitted that the statement of Neetu Singh and Kartik Kumar are yet to be concluded and the case is at the crucial stage, wherein the testimony of the witnesses is pivotal to the administration of justice. There is reasonable apprehension that if the bail is granted to the Applicant, he may abscond and evade the legal process. The apprehension is based on the gravity of the charges and the likelihood of Applicant avoiding the conviction. Granting of bail, at this juncture, may severely prejudice the ongoing trial and delay the judicial process. Furthermore, the Applicant is involved in another case bearing FIR No.0071/2019 under Sections 308/195A/34 IPC registered at PS: Mehrauli.

11. Submissions heard and record perused.

12. As per the Prosecution, PW-2 Neetu Singh and PW-4 Raju @ Ram Rajiv were the two witness to whom the injured before his demise had told the sequence of the incident and the role of accused persons, including that of the present Applicant. After the demise of victim, the information given by him to PW-2 Neetu Singh and PW-4 Raju @ Ram Rajiv is considered to be as dying declaration. At this stage, though it has been contended on behalf the Applicant that public witnesses have been recorded and they have



failed to support the case of the Prosecution, but their statements cannot be minutely examined at this stage to determine whether they have deposed against the Applicant.

13. Furthermore, there are allegations against the Applicant that he tried to destroy the evidence by washing the blood stains from the scene of crime. Moreover, at his instance the weapon used by co-accused Mubeen in the commission of crime was recovered. Furthermore, three other firearms have been recovered at his instance, for which separate FIRs have been registered.

14. Furthermore, the Applicant has two previous involvements of attempt to culpable homicide punishable under Section 308 IPC in FIR Nos.293/2019 and 0071/2019 registered at PS: Mehrauli. In addition, FIR No.0414/2020 under Sections 25/54/59 Arms Act registered at PS: Mehrauli is also pending against him.

15. It is submitted by learned APP for the State PW-2 in her testimony deposed that while she was coming to the Court for making deposition, she had been threatened by the accused persons.

16. Considering not only the gravity of the offence but also the surrounding circumstances, as discussed above, no case is made out for grant of bail to the Applicant.

17. The Bail Application is hereby dismissed. Pending Application(s), if any, is also disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 28, 2025/R