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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1938/2025

SOMBIR @TOTLA

.....Petitioner

Through: Mr. Lewish Edward, Mr. Vignesh P.
and Mr. Gyandendra Singh,
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP.
SI Parmod Kumar, Crime Branch,
NDR.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

11.08.2025

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1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 865/2023 dated 4th December, 2023, registered under Sections 336, 34 of the Indian Penal Code, 1860³ and Sections 25, 27, 54, 59 of the Arms Act, 1959⁴ at P.S. Punjabi Bagh. Subsequently, a chargesheet was filed against the Applicant for offences under Sections 336, 307, 482, 120B of IPC and Sections 25, 27 of the Arms Act.

2. In brief, the case of the prosecution is as follows:

2.1. The instant FIR was registered on 4th December, 2023, on a complaint

¹ "BNSS

² "CrPC"

³ "IPC"



made by Yogesh Kumar, a security guard employed at the residence of Deep Malhotra, Ex-MLA, Faridkot, Punjab. The Complainant alleged that on 3rd December, 2023, at around 6:30 PM, while he was in the guard room near the main gate, he heard a gunshot. Upon stepping outside, he observed two unidentified men, approximately 25 years of age, firing multiple rounds, 4 to 5 in number, towards the main gate of the premises before fleeing in the direction of Ganda Nala, Punjabi Bagh. The case was thereafter transferred to the Crime Branch, New Delhi, for further investigation.

2.2. Acting on secret information, one Aakash @ Kasa, was apprehended on 8th December, 2023. During interrogation, he disclosed that he along with two other persons namely Sombir @ Totla (the Applicant) and Nitesh @ Sinti were involved in the crime. He also revealed that he was in contact with one Rohit Moi of “Gogi Gang” who directed Nitesh @ Sinti to contact one Vishal Chaudhary of the “Lawrence Bishnoi Gang”. Vishal Chaudhary had ordered Akash @ Kasa to fire at the gate of Deep Malhotra and in furtherance of his directions, Akash @ Kasa received 5 pistols and 15-16 cartridges from Jahari Bypass, Sonipat.

2.3. Akash @ Kasa further revealed that on 3rd December, 2023, he along with the Applicant and Nitesh @ Sinti reached Madipur Metro Station where they received a motorcycle from co-accused Vansh @ Gola. Akash @ Kasa rode the motorcycle to the vicinity of the target premises, while the Applicant and Nitesh @ Sinti arrived separately by auto-rickshaw. At the scene, Akash waited on the motorcycle, and the Applicant and Nitesh executed the firing. Following these disclosures, both Akash @ Kasa and Nitesh @ Sinti were arrested on 8th December, 2023.

⁴ “Arms Act”



2.4. During the course of investigation, on 13th December, 2023, the Applicant, who was also one of the shooters, was arrested after a brief exchange of fire with the police, leading to the registration of FIR No. 286/2023 under Sections 186/353/307 of the IPC and Sections 25/27 of the Arms Act, was registered.

2.5. Akash @ Kasa provided the mobile number of Vansh @ Gola, who was thereafter apprehended. Vansh @ Gola disclosed that he had received the motorcycle on 3rd December, 2023, from one Gaurav Rana. Thereafter, Gaurav Rana was also arrested. It was also revealed that Rohit Moi directed Gaurav Rana to follow the directions of Vishal Chaudhary and it was on the instructions of Vishal Chaudhary that Gaurav Rana sent Vansh @ Gola to get the bike and deliver it at Madipur Metro Station.

2.6. During the investigation, Section 307/120B/482 of IPC were also added to the case. On 20th December, 2023, the TIP proceedings of Nitesh @ Sinti and the Applicant were conducted. The Complainant, while acknowledging that the shooters were present, declined to identify them before the Magistrate, citing fear of reprisals due to their alleged gang affiliations. His statement to this effect was recorded under Section 161 Cr.P.C.

2.7. Meanwhile, Deep Malhotra was also examined wherein he stated that in October, 2023, Goldy Brar, a fugitive, had made threatening calls to him and he was demanding extortion money and had subsequently orchestrated the burning of two of his liquor shops in Punjab. An FIR in that regard stands registered at P.S. City Kotkapura, Faridkot, Punjab.

2.8. Analysis of the Internet Protocol Detail Records of Akash @ Kasa's mobile phone indicated contact between him, Vansh @ Gola, and Gaurav



Rana *via* the IP address 98.41.121.53 between 29th November, 2023 and 3rd December, 2023. This IP belongs to Comcast Cable Communications LLC, California, USA, suggesting overseas direction in the execution of the offence.

2.9. Call Detail Records⁵ and location chart of the mobile of all the accused persons revealed that three shooters were present near the place of occurrence on 29th November, 2023 and 3rd December, 2023. The date also placed Vansh @ Gola, at Madipur Metro Station on 3rd December, 2023 before the incident.

3. Counsel for the Applicant submits that the Applicant has been falsely implicated and advances the following:

3.1. The investigation is complete, the chargesheet has been filed and no further custodial interrogation is required. The FIR was initially registered under Sections 336/34 IPC and Sections 25/27/54/59 of the Arms Act. Section 307 IPC was added subsequently, based on a later statement of the Complainant. The original complaint lacked the essential ingredients of Section 307 IPC, which raises doubt as to veracity of the subsequent inclusion.

3.2. The Applicant's name surfaced solely through the disclosure statement of co-accused, which by itself is inadmissible in evidence and insufficient to establish culpability.

3.3. As per the prosecution, three pistols and a motorcycle were recovered about 500 metres from the crime scene and a nearby police post. However, the FSL report, prepared after ballistic testing five days later, indicates that the recovered pistols do not match the bullets recovered at the scene. The



ballistic signatures differ from those of the fired rounds, thereby weakening the alleged link between the weapons and the incident.

3.4. The prosecution's own case is that two unidentified persons are seen in the CCTV footage firing at the residence of Deep Malhotra, but the Applicant is not identifiable in that footage. Furthermore, the Complainant failed to identify the Applicant in the TIP.

3.5. Although FIR No. 286/2023 under Section 186/353/307 IPC and 25/27 of the Arms Act has been registered against the Applicant for firing at the police party and for possession of illegal weapon, the same is altogether a separate offence and unconnected to the present incident.

3.6. The alleged masterminds and ultimate beneficiaries of the extortion plot, namely Lawrence Bishnoi and Goldy Brar, have not been named as accused in the present case, further casting doubt on the prosecution's theory.

3.7. The co-accused Vansh @ Gola, Gaurav Rana, Aakash @ Kasa and Nitesh @ Sinti have been granted bail by this Court on 5th August, 2024, 22nd August, 2024, 15th January, 2025 and 21st March, 2025, respectively. The Applicant deserves bail on the grounds of parity, as his alleged involvement is similar to that of Nitesh @ Sinti.

4. *Per contra*, Mr. Hemant Mehla, APP for State, opposes the bail application and submits as follows:

4.1. The Applicant is part of the two organised crime syndicates known as "Gogi Gang" and "Lawrence Bishnoi Gang" who are involved in a large number of crimes.

4.2. The disclosure statements of the co-accused unequivocally suggest

⁵ "CDRs"



that the Applicant was acting under the directions of the afore-mentioned gangs. This is corroborated by the CDRs of the Applicant and other co-accused, which place them in proximity to the crime scene both on the day of the incident and on the preceding day. The prosecution submits that this combination of disclosure statements and corroborative CDR evidence provides strong *prima facie* material against the Applicant.

4.3. Although the CCTV footage captures the images of the shooters, their faces are obscured, being covered. The guard who is the Complainant refrained from identifying the Applicant in the TIP proceedings out of fear, given the Applicant's alleged gang connections, though he maintained that the shooters were among those apprehended.

4.4. The prosecution apprehends that if the Applicant were enlarged on the bail, he would threaten the witnesses and the Complainant which would affect the case of the prosecution.

4.5. On the inclusion of Section 307 IPC, it is submitted that this arose from the Complainant's statement that the assailants fired at him, conduct that squarely attracts the ingredients of Section 307 IPC.

4.6. The Applicant also has criminal antecedents and is involved in 4 other cases.

5. The Court has considered the material on record and submissions advanced. The investigation stands concluded, chargesheet has been filed and the matter is presently at the stage of framing of charges. As per the latest Nominal Roll dated 31st July, 2025, the Applicant has remained in custody for 1 year, 7 months, and 16 days. It is further noted that both his overall jail conduct and his conduct over the past one year have been assessed as satisfactory.



6. The prosecution relies on CCTV footage said to depict two armed individuals with covered faces firing at the residence gate of Deep Malhotra. Concededly, the footage does not reveal the facial identity of the shooters with clarity.

7. Beyond this footage, the prosecution's case substantially rests on the disclosure statements of co-accused persons and CDR analysis. Whether such statements, absent corroborative recovery or conclusive identification, are sufficient to implicate the Applicant is a question that must be determined at trial. Having regard to the settled law on the limited evidentiary value of disclosures under Section 27 of the Indian Evidence Act, 1872 the absence of recovery and the inconclusive nature of the CCTV identification weigh in favour of extending the benefit of doubt to the Applicant at the pre-trial stage. It is also material that the forensic examination of the footage is still pending. In these circumstances, the Court considers it inappropriate to reach any conclusive assessment on these aspects at this stage.

8. It is further relevant that the offence under Section 307 IPC was incorporated at a later stage, pursuant to a subsequent statement of the Complainant. In his initial version, the Complainant did not allege facts disclosing the essential ingredients of Section 307 IPC, which explains its absence from the FIR. This sequence of events casts doubt on the *prima facie* applicability of Section 307 IPC, lending additional weight to the Applicant's plea for bail.

9. The State has drawn attention to the Applicant's involvement in four other criminal cases, including an incident where he is alleged to have fired at a police team during an attempted apprehension. While this Court does



not discount the seriousness of such allegations, it is pertinent that those offences form the subject matter of separate proceedings and are not under consideration in the present case. In *Prabhakar Tewari v. State of U.P.*,⁶ the Supreme Court held that the mere pendency of multiple criminal cases against an accused cannot, by itself, be a valid ground for denial of bail. The State's apprehensions can, in this case, be addressed by the imposition of stringent conditions to ensure the Applicant's availability for trial and to safeguard witnesses. In view of the foregoing discussion, the Court is persuaded to enlarge the Applicant on bail.

10. Considering the overall facts and circumstances of the case, the Court is inclined to enlarge the Applicant on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall under no circumstance leave the bounds of Delhi NCR without informing the concerned IO;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. 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.

⁶ (2020) 11 SCC 648.



f. The Applicant shall, after his release, appear before the concerned IO/SHO on the first and fourth Monday of each month;

g. 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.

11. 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.

12. 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.

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

SANJEEV NARULA, J

AUGUST 11, 2025/d.negi