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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1948/2025, CRL.M.A. 15732/2025, CRL.M.A. 15733/2025 & CRL.M.A. 15734/2025

MAYANK

.....Petitioner

Through: Mr. Gaurav Puri, Mr. Sarthak Gupta and Mr. Daksh Mohan, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State with Insp. Sandeep, PS New Ashok Nagar.
Mr. Pradeep Teotia, Advocate for complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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29.05.2025

1. The present application is filed seeking pre-arrest bail in FIR No. 790/2024 dated 31.12.2024, registered at police station New Ashok Nagar for offences under Sections 110/115(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS'). The chargesheet is filed under Sections 110/115(2)/190/191(2)/191(3)/192/105/331(6)/333/332(c)/3(5)/61(2) of the BNS.
2. The FIR in the present case was registered pursuant to receipt of information that on the intervening night of 30/31.12.2024 a quarrel took place between two families residing at 280 Durga Mandir, Gali Kondli Village Delhi regarding dispute over their respective shares in the sale proceeds of ancestral land.
3. It is alleged that the brother of the applicant had a scuffle with



one of the victims regarding the same dispute, whereafter, he called the applicant along with the other co-accused and they ran towards the house of the victims while holding wooden rods and hockey sticks.

4. It is further alleged that the applicant along with his family forcefully entered the residential premises of the victims and started brutally beating them. The victims were taken to LBS hospital and were discharged on 31.12.2024.

5. In the statement of the victims recorded under Section 161 of the Code of Criminal Procedure, 1973, it is alleged that the applicant gave a *danda* blow on the head of victim Savitri due to which blood started coming out from her head.

6. On 02.01.2025, the victim Savitri passed away. The post-mortem recorded her cause of death as heart failure.

7. Four of the family members of the applicant who are co-accused in the present case have been arrested on 03.01.2025 and 14.01.2025.

8. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

9. He submits that the applicant was not named in the present FIR and his name has been added subsequently in the final report.

10. He submits that although the applicant was present at the spot of the incident, he was merely a spectator and had not caused any injuries to the victims.

11. He submits that the victim Savitri was taken to the hospital on the night of the incident and was discharged on the same day. He submits that the death of victim Savitri is caused due to heart failure after two days of the incident, and as such, her death cannot be attributed to the alleged incident or the applicant.

12. *Per contra*, the learned Additional Public Prosecutor for the State



vehemently opposes the grant of any relief to the present applicant. He submits that specific allegations have been made against the applicant and he can be seen in the video footage of the incident.

13. He submits that the custodial interrogation of the applicant is important in order to recover the *danda*. He further submits that despite issuance of NBWs, the applicant has not yet joined and co-operated with the investigation.

14. I have heard the counsel for the parties and perused the record.

15. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation has been carried out by the investigating agency.

16. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, advertent to its previous precedents, has discussed the parameters to be considered while considering pre-arrest bail applications, in the case of ***State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104***, has held as under:

“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 :



1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

17. It is the case of the prosecution that the applicant along with his family had brutally beaten the victims with *dandas* and hockey sticks and the same was captured in a video footage recorded by one of the family members of the victims.

18. In the present case, the presence of the applicant at the time and spot of the incident is not disputed. It is argued that the applicant was merely a spectator to the incident.

19. I have perused the footage of the incident. While the applicant does not appear to be holding any *danda* in the footage, however, it cannot be ignored that the applicant had barged into the home of the



victims along with his family members, whereafter, the victims were brutally thrashed.

20. Footage indicates that the victims including the deceased who was an old woman were bleeding badly due to the beatings given by the accused person. The victim Savitri later died. At this stage, the investigation does not seem to be carried out with the intention to injure or humiliate the applicant. The nature and the gravity of the allegations are serious.

21. Furthermore, it is also relevant to note that NBWs have been issued against the applicant and he did not join or co-operate with the investigation. It is stated that further investigation is required for recovering the weapon. The investigating agency needs to be given a fair play in the joints to investigate the matter in the manner they feel appropriate.

22. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

23. In view of the above, in the present circumstances, this Court is of the opinion that the applicant has not made out a *prima facie* case for grant of pre-arrest bail.

24. The present application is accordingly dismissed.

25. It is clarified that any observations made in the present order are



for the purpose of deciding the present bail application and should not be taken as an expression of opinion on the merits of the case.

MAY 29, 2025

AMIT MAHAJAN, J