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

+ **BAIL APPLN. 2585/2025**

SHIVAM@ SHIBU

.....Petitioner

Through: Mr.C.S.S Tomar and Mr.Chaman,
and Mr.Yash Thakur, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms.Richa Dhawan, APP for State
with SI Anil Kumar Special Staff/
East

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

08.09.2025

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1. The applicant, in custody since 27.02.2025 (6 months and 12 days), seeks indulgence of this Court for grant of bail during the pendency of trial in criminal proceedings arising out of FIR No. 356/2024, dated 10.10.2024, registered at Police Station Shakarpur. The FIR records alleged offences under Sections 61(1),3(5),95 of the BNS, and Section 25 of the Arms Act. In the bail application Sections 55, 103(2), and 318(4) of the BNS have also been mentioned.

2. Briefly speaking, *per* FIR, on 10.10.2024, Inspector Khalid Hussain, SHO/PS Shakarpur, while on patrolling duty with his staff, received secret information that some boys were staying at Metro Hotel, Shakarpur, Delhi, with illegal weapons and were planning to kill someone. The ACP/Preet Vihar was informed and ordered an immediate raid.



2.1 A raiding team was formed, including the hotel manager Naveen Tiwari, and a search of Room No. 2001 led to the detention of three boys, namely Dev @ Aadi (17 years), Shubham Kanholiya @ Sam (16 years), and Yash Kumar (21 years).

2.2 From under a pillow in the room, three pistols, sixteen live rounds, and one empty magazine were recovered. On query, the boys attributed the recovery to themselves and to one Abhishek Vashishth @ Dhruv @ Ghoda (21 years), who was subsequently called from Room No. 1002 and admitted ownership of one pistol.

2.3 Upon interrogation, the accused disclosed that they, along with two more associates, Vivek Goswami @ CB (17 years) and Arvind Kumar (19 years), detained from Room No. 4004, had been engaged by Shivam @ Shibu (applicant herein), on the instructions of Anil @ Babbal, to kill one Sundar Bhati of Ganesh Nagar, in return for cash, car, and house, with each member promised Rs. 5 lakhs.

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

4. Learned counsel for the applicant would argue on lines of grounds taken in the petition *inter alia* urging as below:-

4.1 That the FIR No. 356/2024 was registered at P.S. Shakarpur on the complaint of police officials, wherein it was alleged that a conspiracy was being hatched to commit the murder of one Sundar Bhati. The name of the applicant surfaced only in the disclosure statements of co-accused persons. No recovery was made from the applicant during investigation, and the charge sheet has already been filed.

4.2 That co-accused Arvind, who is clearly visible in the CCTV footage



and was allegedly present at the scene, has already been granted regular bail by the learned trial court *vide* order dated 03.01.2025 at the very first instance. Similarly, co-accused Sandeep Malik, the alleged arms supplier and main conspirator, has also been granted bail by the Learned Sessions Court *vide* order dated 07.12.2024. In contrast, no CCTV footage, recovery, or digital/financial link connects the present applicant to the alleged offence. Hence, on the principle of parity, the applicant is equally entitled to bail.

4.3 That the prosecution case itself shows that the alleged conspiracy originated from other co-accused persons who procured arms, coordinated via social media, exchanged payments, and were captured in CCTV footage. Despite such grave allegations, all these co-accused have been granted bail. The applicant, who has no such recovery or digital connection, deserves the same relief.

4.4 That the alleged principal conspirator Anil @ Babbal, accused of financing the conspiracy with ₹10–15 lakhs, has not been arrested till date. No evidence whatsoever has been brought on record to connect the applicant with him. It is arbitrary and unjust that the real financier remains untouched while the applicant is falsely implicated.

4.5 That the applicant and his family have been subjected to harassment by the police. Complaints of bribery demands by police officials were ignored, and thereafter false implication was ensured. The applicant was even dragged into another FIR No. 317/2024, P.S. Preet Vihar despite his name not being mentioned, solely on the basis of copy- paste disclosure statements.

4.6 That although the FIR mentions locations like U88 Hotel Metro Stay, Smoke Zone, and Garg Properties, the Investigating Officer has failed to



produce genuine CCTV footage from these places. Footage is conveniently missing or corrupted only from places where the applicant is alleged to be present, which reflects manipulation.

4.7 That the Special Crime Branch investigation also failed to show any nexus between the applicant and the co-accused. No financial dealings or material evidence have been brought on record to suggest conspiracy.

4.8 That the only alleged link is a photograph purportedly showing the applicant with co-accused Amit Shukla. The applicant denies the same, contending it is an AI-generated/false image from a fake Instagram account, unauthenticated under Sections 65A & 65B of the Indian Evidence Act. No call records, chats, or other corroboration exist.

4.9 That the alleged “victim” Sundar Bhati is himself a proclaimed gangster with numerous heinous cases against him. He cannot be treated as a victim while the innocent applicant, with no criminal antecedents, is falsely implicated without nexus.

4.10 That the applicant/accused, aged 24 years, is a law-abiding citizen with no prior criminal record. He has been falsely implicated in the present case due to previous enmity with certain individuals named in the FIR. The applicant voluntarily surrendered before the Learned Trial Court on 25.02.2025 and has been in judicial custody since 27.02.2025, suffering over 6 months of incarceration without justification.

4.11 That the applicant is the sole earning member of his family. His father is a chronic heart patient, and his mother has undergone major surgeries. His release on bail is necessary on humanitarian grounds.

4.12 That no incriminating recovery has been made from the applicant. No financial transaction, no call record, and no evidence connects him with any



co-accused. The entire case is circumstantial and based on conjectures.

5. The learned APP for the State strongly opposes the applicant's application for bail. She contends that the accused poses a significant risk to the trial proceedings as there is an apprehension that if released on bail, he may influence or tamper with witnesses and evidence.

6. I have heard the submissions of both sides and perused the case file. There may be some substance in the arguments of the learned counsel for the applicant addressed on merits qua the non-culpability of the applicant, but the same can be adjudicated only in the course of trial. However, at this stage, I am of the considered view that the applicant deserves to be released on bail during the pendency of the trial, for the reasons stated hereinafter.

7. My attention has been drawn at para 4 of the bail application where it is stated that in the case of co-accused Arvind, who was allegedly nabbed red handed and also named in the FIR and thus role attributed to him stands on much higher footing than that of the present applicant, and he has been granted bail by the learned Trial Court *vide* an order dated 03.01.2025. The said bail has neither been challenged nor otherwise disputed by the prosecution. On a Court query put to the learned APP for State, she would, under instructions of the Investigating Officer, submit that the co-accused Arvind was indeed caught red handed when the raid was conducted. Whereas, the applicant herein was subsequently arrested on the basis of disclosure statement of the co-accused.

8. The applicant has already remained in custody for 6 months and 12 days, 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.



9. 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. He has deep roots in society and no criminal antecedents and hence, not a flight risk.

10. The applicant/accused is the sole breadwinner of his family, and his father is a chronic heart patient and his mother, who has undergone two major operations, is in critical health. Due to the applicant's judicial custody, the family is facing severe financial and medical hardship with no means of support.

11. As an upshot and taking wholesome view of the matter, the applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

12. Nothing observed herein above shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application.

13. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 8, 2025/SV