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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2626/2025 & CRL.M.A. 20511/2025

KUNAL SOLANKI

.....Applicant

Through: Mr. Nishant Raj Goel &
Mr. Gagan Talwar, Advs.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh
Chauhan, APP for the
State
SI Harsh Kumar, PS- Nabi
Karim

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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25.09.2025

1. The present bail application is filed seeking pre-arrest bail in FIR No. 251/2025 dated 19.05.2025, registered at Police Station Nabi Karim, for offences under Sections 221/132/121(1)/326(a)/326(b)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').
2. The FIR was registered on the statement of the complainant- Ct. Yogendra alleging that on 19.05.2025, while he was patrolling in the area along with HC Rajendra in pursuance of their official duty, they saw the applicant along with other accused persons- Dev Solanki and Deepak causing damage to the state water pipelines carrying water for the general public by providing new illegal water connections. It is alleged that on inquiring about whether any valid permissions had been obtained by the accused persons for making a new connection, the accused persons became agitated and started shouting to gather a crowd



for support.

3. When the police staff sought to bring the accused persons to a chowki, they started scuffling with the police staff and tore the uniform of the complainant. Allegedly, the accused persons also gave beatings to the police officials, which led to injuries being sustained by the complainant. It is alleged that the applicant also lifted a *tawa* lying at the spot of the scuffle with the intention of beating the complainant with the same and thereafter, he again attempted to hit the head of the complainant. Allegedly, the applicant also threw a *chulha* towards the complainant with an intention to inflict injuries. The incident was caught on CCTV camera.

4. The co-accused persons were arrested on the same day whereas the applicant apparently absconded.

5. The learned counsel for the applicant submits that the genesis of the incident has been concealed by the prosecution and the accused persons were severely assaulted by the police officials. He states that the offence under Section 109(1) of the BNS was invoked belatedly.

6. He submits that co-accused persons have already been granted bail and in the order granting bail, the learned Trial Court has noted that the case *prima facie* seems to be one of custodial violence. He submits that the same shows the genuineness of the applicant's apprehension of further brutality at the hands of police officials, due to which, he didn't surrender.

7. The learned Additional Public Prosecutor ('APP') for the State opposes the grant of any liberty to the applicant and submits that the applicant is visible in the CCTV footage hitting the Police personnel.



8. I have heard the counsel and perused the record.

9. Much emphasis has been laid on the applicant being entitled to bail on the ground of parity. Reliance has also been placed on certain observations made by the learned Trial Court while admitting co-accused Dev Solanki on bail by way of order dated 05.06.2025.

10. In the said order, the learned Trial Court had noted the submission made on behalf of accused Dev, who stated that the said accused is a labourer and was working on the pipeline on the instructions of the employer. It was noted that the co-accused persons, who had been arrested, had been beaten while in custody due to which inquiry was also directed to be conducted by the concerned DCP. The inquiry report filed by the DCP and the explanation given by the SHO were not found to be satisfactory. It was noted that the co-accused persons were taken to a location which was not a functional Police Post and no DD entry was also made in that regard. It was noted that no explanation was given for a head injury caused to one of the co-accused persons in custody as well. The learned Trial Court also noted that no explanation had been given as to why Section 109(1) of the BNS was added after one day of registration of FIR. Furthermore, the learned Trial Court granted bail after noting that the concerned co-accused is not involved in any other case, he is not required for further custodial interrogation and that there is no chance of influencing the witnesses, who are the Police officials.

11. The role attributed to the applicant cannot be said to be graver than the co-accused persons who have already been admitted on bail, which entitles the applicant to grant of bail on



parity.

12. It is also pertinent to note that by order dated 24.07.2025, the applicant was granted interim protection by this Court subject to him joining and cooperating with the investigation.

13. It is pointed out that the applicant has since joined investigation. Although it is contended by the learned APP that the applicant has not cooperated with the same, it is trite law that merely because an accused person does not confess to the allegations levelled against him and make self-incriminating statements, it cannot be said that he isn't cooperating with the investigation [Ref. ***Bijender v State of Haryana : Special Leave to Appeal (Crl.)No. 1079/2024***].

14. It is not in doubt that order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, cooperating with the Investigating Agency and is not likely to abscond, the custodial interrogation should be avoided.

15. It is stated that the applicant is merely 21 years of age and he has no criminal antecedents.

16. In view of the above, in the opinion of this Court, the applicant has made out a case for grant of pre-arrest bail.

17. In the event of arrest, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹15,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall not leave NCR till the conclusion of trial;



- b. The applicant shall keep his mobile phone switched on at all times;
 - c. The applicant shall make no contact with the prosecution witnesses;
 - d. The applicant shall not tamper with the evidence in any manner and shall not try to influence the witnesses directly or indirectly;
 - e. The applicant shall commit no offence whatsoever and in the event of his being involved in any other case and lodging of FIR of DD entry against him, the State shall bring the same to the notice of the Court forthwith;
 - f. The applicant is directed not to threaten the complainant/witnesses in any manner and shall not come in the vicinity of the complainant/witnesses;
 - g. The applicant/accused shall intimate the learned Trial court as and when he changes his residential address.
18. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.
19. The present bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 25, 2025

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