



2025:DHC:1820



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

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Judgment reserved on: 18.03.2025
Judgment pronounced on: 21.03.2025

+ **BAIL APPLN. 2831/2024, CRL.M.A. 23763/2024**

AFRID KHAN

.....Petitioner

Through: **Mr. Nihit Singhal, Mr. Manik
Dhingra & Mr. Varun Narang,
Advs.**

versus

THE STATE GOVERNMENT OF NCT OF DELHI

.....Respondent

Through: **Mr. Tarang Srivastva, APP for
State with SI Satyander, PS SP
Badli.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

1. The present application under Section 439 read with 482 of the Code of Criminal Procedure, 1973 (CRPC) has been filed by the petitioner/applicant, seeking regular bail in the FIR No.468/2023 registered at Police Station Samaypur Badli for the offences punishable under Sections 392, 397 and 34 of the Indian Penal Code, 1860 (IPC).
2. Briefly stated, the facts are that on 18.05.2023, the complainant along with his helper Rahul were *enroute* Delhi in their vehicle. While



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they were on their way, the complainant reached Gopiganj at around 10:30 pm, where, on instruction of their boss Mr. Ashish Aggarwal, the complainant received an amount of Rs. 4 lakhs in cash from a person. On receiving such an amount, the complainant continued his journey towards Delhi.

3. On 20.05.2023, at around 02:00 am, the complainant reached the CNG Pump, Lower GTK Road, Sanjay Gandhi Transport Nagar, Delhi. Since it was late at night, the complainant parked his vehicle on the roadside and slept in the vehicle, along with the helper Rahul. Suddenly, around 08:30 am, the complainant woke up to four people inside the vehicle, one of them carrying something resembling a pistol and another wearing a mask. They started beating the complainant and his helper Rahul and on finding the money kept in the vehicle, they took the same and proceeded towards Alipur.

4. The complainant, thereafter, made a PCR call at 09:19 am and the aforementioned FIR was registered. As per the version of the prosecution, all four accused persons were arrested on 23.05.2023, including the petitioner/applicant. The Charge-sheet was filed by the State on 20.07.2023, wherein the petitioner/applicant was arrayed as the Accused No.4. Accordingly, the Charges under Section 395, 412 and 34 of the IPC were framed against the petitioner/applicant by the learned Trial Court *vide* the Order dated 30.10.2023.

5. On 27.01.2024, the third bail application filed by the petitioner/applicant came to be dismissed by the Additional Session



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Judge, District North, Rohini Courts, Delhi (ASJ). The matter is presently at the stage of prosecution evidence before the learned ASJ.

6. The learned counsel for the petitioner/applicant submitted that the petitioner/applicant was falsely implicated and arrested from Ghaziabad, UP and no intimation was given to the Ghaziabad Police regarding this arrest, and therefore, the arrest was not in accordance with due procedure of law. The Charges, he submitted, have incorrectly been made out against the petitioner/applicant. The learned counsel relied on the decision of this Court in ***Sandeep Kumar vs The State (Govt. of NCT Delhi) & Ors*** 2019:DHC:6920-DB

7. On merits, the learned counsel contended that there are major contradictions in the General Diary entry and the FIR registered in the present case with respect to the make and color of the car used in committing the offence, as well as the number of accused persons wearing mask at that time. There is also a substantial unexplained delay for the registration of the FIR.

8. The learned counsel submitted that no weapon was recovered from the petitioner/applicant and the co-accused and thus, it cannot be said that they induced fear upon the complainant and his helper and therefore, the Charges cannot be invoked merely on account of a statement recorded under Section 161 of the CRPC. He further submitted that no MLC of the complainant or his helper Rahul was ever conducted by the police officials.



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9. The learned counsel submitted that at the time of the examination-in-chief of the complainant on 23.12.2023, he stated that the police had seized the vehicle and put him in the lock-up, which creates a doubt regarding the authenticity of the statement made under Section 161 of the CRPC. Further, all witnesses in this case are interested witnesses and there is no independent witness to support the case of the prosecution.

10. To conclude, the learned counsel submitted that the petitioner/applicant has been incarcerated for a period of about 1 year and 10 months and that only one witness has been examined so far and therefore the trial is not likely to conclude in the near future. As he is the sole bread winner of his family, he prays that he be released on bail. To support his stand, he placed reliance on the decision of the Apex Court in *Sangram Sadashiv Suryavanshi vs the State of Maharashtra* Criminal Appeal No.4758 of 2024 and a decision of this Court in *Mohd. Azharduddin vs the State (NCT of Delhi)* 2022: DHC:1922.

11. Conversely, the learned APP submitted that the cross examination of the complainant is pending. Since the Trial Court was vacant for a considerable period of time, it has led to a delay of about 6 months and therefore, the cross examination has not concluded. He submitted that the FSL report on the CCTV footage is awaited and once they receive the same, along with the cross-examination of PW-1



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being conducted, the prosecution will have a watertight case against the accused.

12. The learned APP also opposes the regular bail on the ground that from the robbed money, an amount of Rs. 80,000/- was recovered from the petitioner/applicant. In totality of the facts and circumstances, he prays that the petitioner/applicant's prayer for bail be rejected.

13. Having heard the arguments on behalf of the parties and perused the record, it would first be apposite to mention that the prosecution has alleged that the petitioner/applicant, along with three other persons, had approached the vehicle of which the complainant was a driver. One of them was carrying something resembling a pistol and they started giving beatings to the complainant and his helper. Thereafter, they searched the vehicle and found the bag containing Rs. 4,00,000/- and after taking the money, they fled from the spot. The prosecution has neither stated which of the accused person was holding the weapon nor has the weapon been recovered. The complainant and his helper have been not medically examined to prove injuries on their person.

14. The nominal roll shows that the petitioner/applicant has been incarcerated for about 01 year, 09 months and 26 days and the jail conduct of the petitioner is satisfactory, moreover, he has clean antecedents.



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15. The charges have been framed, however, the testimony of the complainant could not be completed as the Court is stated to be lying vacant. Therefore, it is difficult for the prosecution to state the time period within which the trial could possibly conclude.

16. In view of the consideration of the above circumstances, the petitioner, **Afrid Khan** is admitted to regular bail pending trial in the subject FIR, on his furnishing a personal bond in the sum of ₹30,000/- with one surety bond of the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:

- i. The Petitioner/applicant shall not leave India without prior permission of the Learned Trial Court.
- ii. The Petitioner/applicant shall report at P.S. S.P. Badli every Saturday at 4:00 P.M. The concerned officer shall release the Petitioner/applicant by 5:00 P.M. after recording his presence and after completion of all the necessary formalities.
- iii. The Petitioner/applicant shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The Petitioner/applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner/applicant is directed to give his mobile



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number to the Investigating Officer and keep it operational at all times.

- vi. The Petitioner/applicant shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii. The Petitioner/applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

17. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

18. It is made clear that this Court has not expressed any opinion on the merits of the Petitioner/applicant's case.

19. Accordingly, the petition is disposed of.

SHALINDER KAUR, J

MARCH 21, 2025/ab/fkr

Click here to check corrigendum, if any