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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2787/2025 & CRL.M.A. 21727/2025,
CRL.M.(BAIL) 1606/2025

NIKHIL GUPTA

.....Applicant

Through: Ms. Vibha Datta Makhija,
Senior Advocate with Mr.
Laksh Khanna, Mr. Alok
Saxena, Mr. Saksham
Tuli, Ms. Diksha Suri and
Ms. Latika Bansal,
Advocates.

Mr. Mohit Gupta, brother
of the applicant in person.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP
for the State with Insp.
Kishore Kumar, ASI
Ashok Kumar, PS
V.K.North.

Mr. Saurabh Sharma and
Mr. Divender Kumar,
Advocates for the victim
and Mr. Devender Kumar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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26.08.2025

1. The present application is filed seeking bail in FIR No. 147/2025 dated 10.04.2025, registered at Police Station Vasant Kunj North, for the offences under Sections 118(1)/ 324(4) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. It is the case of the prosecution that on 10.04.2025, a PCR call was received regarding a quarrel between neighbours and damage to household items. Another information was received on the same night from Fortis Hospital regarding the victim having received a knife injury. The same led to registration of
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FIR. During investigation, the statement of eye-witness, namely, Devender Kumar, was recorded, who alleged that the applicant had broken the flowerpots at his residence on the intervening night of 09.04.2025-10.04.2025. He alleged that when his son and his son's friend (the victim) visited the applicant to question about the flowerports, the applicant went inside his house and returned with a knife. He alleged that the applicant stabbed the victim in the stomach. On 16.04.2025, the statement of the victim was recorded and he supported the allegations. Chargesheet has been filed against the applicant for the offences under Sections 109(1)/324(4) of the BNS.

3. The learned senior counsel for the applicant submits that a bare perusal of the chargesheet shows that only a scuffle had taken place between the applicant and his neighbours, whereby the applicant had returned to his residence. She submits that the neighbours thereafter provoked the applicant by returning to his residence, despite being aware that the applicant was not in a fit state of mind. She relies upon the medicolegal report of the applicant that relates to the same day which indicates that the applicant also suffered from extensive injuries in the altercation.

4. She submits that the applicant is suffering from Schizophrenia with mental and behavioural disorder due to cannabis dependence syndrome. She further submits that the applicant is suffering from delusion that his neighbours and people around him have been set up by the Government of India to eliminate him.

5. She states that the applicant is not of sound mound and requires constant medical treatment. She submits that the applicant is entitled to the benefit of Section 369 of the Bharatiya



Nyaya Suraksha Sanhita, 2023 ('BNSS') and the applicant's brother undertakes to ensure that the applicant will obtain regular treatment.

6. *Per contra*, the learned Additional Public Prosecutor for the State submits that CCTV footage has been recovered that show the applicant damaging and breaking flowerpots. She further submits that multiple complaints and PCR calls have been previously made against the applicant's aggressive conduct and hostile behaviour in the neighbourhood as well.

7. The learned counsel for the eye witness Devender Kumar and the victim submits that while there is no aversion to the applicant being enlarged on bail as long as he does not live in the same locality, and since the applicant's brother is a resident of Bangalore, he will be unsuitable to obtain regular out-patient psychiatric treatment for the applicant.

8. The said assertion is contested by the learned senior counsel for the applicant. It is stated that the applicant's brother has since resigned from his job in Bangalore and now resides in Delhi.

9. The applicant's brother Mohit Gupta is present in Court and he undertakes that he will make sure that the applicant does not live in the same society where he was previously residing.

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

11. In the present case, the counsel for the applicant has relied upon a number of medical documents, including the medical status report of the applicant prepared by the office of the senior medical officer in Central Jail Hospital as well as the report from IHBAS, to impress upon this Court that the applicant is a man of unsound mind and that he suffers from Cannabis Induced



Psychosis as well as Schizophrenia. The IHBAS report also states that the applicant has been provisionally diagnosed with Mental and Behavioural Disorder due to cannabis and tobacco dependence.

12. Whether the applicant is entitled to the defence of unsoundness of mind cannot be ascertained at this stage and will be seen during the course of the trial, however, it cannot be ignored that the medical documents on record *prima facie* indicate that the applicant is suffering from the aforesaid mental illnesses and it is possible that the alleged incident occurred as a result to the applicant being agitated on confrontation owing to his mental illness. *Prima facie*, at this stage, it does not appear that the applicant stabbed the victim with any premeditated intent and it seems that the incident took place in the spur of the moment. Moreover, undisputably, the applicant has also suffered from serious injuries in the altercation.

13. Reliance has been placed upon Section 369 of the BNSS. The said provision provides that if it is found under Section 367 or Section 368 of the BNSS that an accused is incapable of entering defence by reason of unsoundness of mind, the Court may order release of such a person on bail if certain conditions are met. One such condition mentioned in the proviso to Section 369(1) of the BNSS is that a friend or relative of the accused must undertake to obtain regular treatment for the accused from the nearest medical facility and to prevent the accused from doing injury to himself or any other person.

14. In the present case, the applicant has not been declared to be an accused incapable of entering defence in terms of BNSS till now. Even so, having found that the applicant has *prima facie*



been able to show that he is suffering from Cannabis Induced Psychosis and Schizophrenia, in the opinion of this Court, more harm will be caused to the applicant by subjecting him to further custody, especially after chargesheet has already been filed.

15. This Court is inclined to take an empathetic approach in the present case while being cognizant of the balance that needs to be struck between the welfare of the accused and the welfare of the society at large. It cannot be ignored that the applicant is alleged to have caused a stab injury, and thus, appropriate conditions are required to be imposed to ensure that the applicant causes no further harm to himself or anyone else.

16. In the opinion of this Court, the said apprehensions can be allayed on the strength of the undertaking of the applicant's brother Mohit Gupta who has undertaken to ensure that the applicant receives proper medical care.

17. In view of the above, considering the verbal as well as filed undertaking of the applicant's brother Mohit, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount (one of the sureties must be furnished by the applicant's brother Mohit Gupta), subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant's brother Mohit Gupta will ensure that the applicant receives regular out-patient treatment with respect to his medical condition at a reputed medical facility in Delhi and he will also ensure that the applicant will not reside in the same society where he was residing earlier;



- b. The applicant's brother Mohit Gupta will file the treatment reports of the applicant before the learned Trial Court every month;
 - c. 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;
 - d. The applicant shall under no circumstance leave the boundaries of the country without permission of the learned Trial Court;
 - e. The applicant shall appear before the learned Trial Court as and when directed;
 - f. The applicant shall not reside in his previous residence and he shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
 - g. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phones switched on at all times.
18. 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.
19. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

AUGUST 26, 2025