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

+ **BAIL APPLN. 2875/2025**

SAGAR SAMAL

.....Petitioner

Through: Mr. Abhijat, Sr. Advocate with
Mr. Yadunandan Bansal, Mr. Abdul
Qadir, Ms. Shawariya Muzaffar,
Ms. Vrinda Goyal and Mr. Hitesh
Gain, Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Vikrant, P.S. Kalkaji.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

20.08.2025

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1. First Bail Application under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner seeking Anticipatory Bail in FIR No.0371/2025 under Sections 118(1)/3(5) BNS read with Sections 25/27 of the Arms Act, registered at P.S.: Kalkaji, New Delhi.
2. It is submitted that an Anticipatory Bail Application, filed before learned ASJ, was dismissed on 21.07.2025. It is claimed that the Applicant is a law-abiding citizen and has been falsely implicated in this case.
3. Present FIR relates to an incident dated 11.07.2025 at around 10:00 PM, when the Complainant and his friend were allegedly intercepted and fired upon by unknown assailants on motorcycles near H-Block Market, Kalkaji, New Delhi. FIR itself does not contain the name of the Applicant, nor is there any initial disclosure about his identity or alleged role. The FIR



speaks only of “unknown assailants”. No recovery of firearm, bullet, cartridge, or weapon has been made from the Applicant.

4. The allegations are primarily based on suspicion or unverified disclosure statements made much later, with no corroboration. The Applicant is a permanent resident of Delhi having clean antecedents and undertakes to cooperate fully with the investigation. There is no reasonable apprehension of arrest despite there being no direct evidence linking him to the alleged offence. No Test Identification Parade (‘TIP’) has been conducted till date.

5. **Bail is sought on the grounds** that no recovery whether of weapon, bullet, cartridge or other incriminating material has been made from the Applicant or at his instance. Only one empty cartridge was recovered from the scene of crime, which is public place, after five days, which creates a doubt about the recovery. Moreover, there is no forensic linkage between the recovered cartridge and the Applicant.

6. The Prosecution seeks to rely on the alleged disclosure of co-accused Karan, which is in-admissible under Sections 22 and 23 of BSA, 2023. The custodial interrogation of the Applicant is unwarranted when no recovery is pending. Custodial interrogation of the applicant is not required as nothing remains to be recovered from him. His custodial detention would serve no investigative purpose and is contrary to the principles laid down by the Hon’ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694, wherein it was observed that “custodial interrogation should be the exception and not the rule.”

7. Reliance has been placed on Arnesh Kumar vs. State of Bihar, (2014) 8 SCC 273, wherein the Hon’ble Apex Court emphasized that Section 482 BNSS (438 Cr.P.C.) is a valuable safeguard for individuals against abuse of



police powers and that the courts must ensure protection of liberty, particularly where there is no recovery, antecedent, or likelihood of absconding.

8. Similarly, Gurbaksh Singh Sibbia vs. State of Punjab, (1980) 2 SCC 565, authoritatively held that “**bail is the rule and jail is the exception.**”

9. The allegations stem from prior enmity and the Applicant’s implication appears to be motivated and vindictive. Where *mala fide* or motivated implication is suspected, Courts should be vigilant in safeguarding the liberty of individuals.

10. Reliance has been placed on Joginder Kumar vs. State of U.P., (1994) 4 SCC 260. Reference is also made to Kusha Duruka vs. State of Odisha, Criminal Appeal No. 303/2024, where the Hon’ble Apex Court reiterated that dismissal of Anticipatory Bail must be on substantive grounds and should not be based solely on the stage of investigation, if custodial interrogation is not necessary.

11. Mere existence of past acquaintance or alleged enmity cannot be sufficient ground to deny bail, especially in the absence of concrete evidence or threat by the Applicant to the Complainant or witnesses. Mere denial of Anticipatory Bail purely on suspicion and hearsay without evidence would, result in pre-trial incarceration, violating Article 21 of the Constitution of India.

12. Prayer is therefore, made that Applicant be granted Anticipatory Bail.

13. **Status Report** has been filed on behalf of the State, wherein it is submitted that Complainant Dev Malik had given statement against Sagar Samal (Applicant herein), Ravi, Karan and Hrithik, in which he stated that on 11.07.2025 at about 10:00 PM, when he along with his friend namely Nirbhay



Bhati, was returning to his home on his motorcycle, there were attacked in H Block, Kalkaji by some boys riding motorcycle namely Sagar, Ravi, Karan and Ritik, who were on two different motorcycles. They tried to obstruct the way of the motorcycle, on which Complainant and his friend Nirbhay Bhati were riding. Taking advantage of this, the Applicant Sagar Samal sitting on pillion seat, open fired at them while chasing from behind in which Nirbhay Bhati sustained gunshot injury in his right leg and Dev also sustained injury.

14. The names of the accused persons were not mentioned in the FIR, for which the explanation had been stated that at the time of incident, the focus was to escape from the spot. However, injured Nirbhay Bhati, who was sitting on pillion seat, in his statement named the accused persons and stated that he was keeping an eye on all of them. He mentioned that all accused were known to him. Main accused Sagar Samal (Applicant herein) who fired at him, had some previous enmity with him. Both, Complainant Dev and injured Nirbhay were admitted in AIIMS Trauma Centre and their MLCs were prepared.

15. During investigation, the crime scene was inspected by the Crime Team and an empty cartridge was recovered from the spot. Co-accused namely Karan, aged 22 years, was arrested on 16.07.2025 and sent to the Judicial Custody. However, prime accused Sagar Samal @ Guddu along with Ravi is at large. The proceedings under Section 84 BNSS (82 Cr.P.C.) has also been completed against petitioner Sagar Samal @ Guddu and Ravi, after obtaining the NBWs against them were unexecuted.

16. The Bail of the Applicant is opposed on the ground that he is the prime accused, who had open fired at the victims. The weapon of offence is yet to be recovered. The co-accused Karan has also disclosed that the Applicant open fired at the victims. The offence committed is grievous in



nature and there is a likelihood of committing the offence again, if he is released on bail. Investigations are still in progress, which may be hampered, if the bail is granted. There is also a likelihood of the Complainant and the witnesses being threatened by the Applicant. Bail is therefore, opposed.

17. Learned counsel for the Applicant/Petitioner has vehemently argued that the MLCs of present two injures does not indicate that the bullet had penetrated their bodies. The bullet allegedly had grazed their body. No recovery of weapon of offence has been made till date and only one empty cartridge allegedly was recovered from the scene of crime after five days. This recovery is highly doubtful, as it is difficult to comprehend that even after five days, the bullet would be recovered from a busy public place. Moreover, no FSL Report is there to connect the cartridge with the commission of offence in any manner. It is further contended that after lapse of such a long time, it is highly unlikely that any recovery of weapon of offence would be made.

18. Learned APP for the State has objected to the Bail on the ground that not one, but two persons were injured and had suffered gun-shot injuries Irrespective of the recovery of the weapon of offence, the gravity of the offence cannot be overlooked. Though the Applicant and the co-accused were not named in the FIR, but their names were disclosed by the injured Nirbhay Bhati in his statement.

19. Moreover, it has been revealed from the investigations that there was previous enmity between the injured Nirbhay Bhati and accused persons, which prompted the present offence. It is further contended that while one co-accused has been arrested, one has failed to join the investigations and proceedings under Section 84 B.N.S.S. have been completed. Moreover, the



statements of only three witnesses are yet to be recorded. Bail is therefore, opposed on the ground that custodial interrogation is required.

Submissions heard and record perused.

20. As per the case of the Prosecution, four accused on two different motorcycles had way-laid the motorcycle of two injures and fired at them, who, in fact, sustained injuries, which is also corroborated by their MLCs prepared at AIIMS Trauma Centre. There is also a contention that this incident was the outcome of previous enmity between one of the injured and the accused persons.

21. While it has been submitted by learned counsel for the Applicant/Petitioner that he and other accused were not named in the Complaint or FIR, but it cannot be overlooked that their names were disclosed by the injured Nirbhay Bhati in his statement. Moreover, it is the contention on behalf of the Applicant that there was previous enmity amongst the injured and the Applicant and other accused persons. Therefore, not mentioning of their names in the FIR cannot be a ground to agitate that there is false implication, especially, when the investigation is at nascent stage.

22. Investigations are still at nascent stage, wherein only one co-accused has been apprehended. The Applicant and one co-accused have not joined the investigations and the proceedings under Section 84 B.N.S.S. have also been concluded. It is evident that they have failed to cooperate or join the investigations.

23. Furthermore, it is a clear-cut case, where the weapon of offence is yet to be recovered, for which custodial interrogation of the Applicant may be required.

24. Considering the gravity of the offence, stage of investigation and that



the weapon of offence is yet to be recovered, no case is made out for grant of Anticipatory Bail to the Applicant Sagar Samal.

25. Bail Application along with pending Application is hereby dismissed.

NEENA BANSAL KRISHNA, J.

AUGUST 20, 2025/R