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

+ **BAIL APPLN. 3020/2024**

JUAIL SIDDIQUE

.....Petitioner

Through: Mr. Naveen Malhotra, Ms. Meghna
Bali, Mr. Shyam Sunder Agarwal,
Ms. Neha Sehrawat, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State
SI Devender Antil, P.S. Sarai Rohilla

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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24.01.2025

1. This petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking for grant of regular bail to the Applicant/accused i.e. Juail Siddique in FIR No. 534/2022 registered under Section 326A of Indian Penal Code, 1860 ('IPC') at Police Station Sarai Rohilla.
2. It is pertinent to state that the first bail application of the Applicant was dismissed by the ASJ-03, Central District Tis Hazari Courts, Delhi ('Trial Court') vide order dated 06.02.2023. Thereafter the second bail application and third bail application as well were dismissed by the said Trial Court vide orders dated 18.04.2024 and 25.07.2024 respectively.
3. Briefly stated, the facts of the present case are that on 08.08.2022, a PCR call was received vide DD No. 100A at the Police Station (P.S.) Sarai



Rohilla from Acharya Bhikshu Hospital whereby it was informed that a victim with acid burns has been admitted to the hospital, therefore, an MLC has to be conducted, whereafter, the concerned police official had reached the hospital and collected MLC No. 12775 of 2022 pertaining to the patient Smt. Shama Praveen, wife of Juail Siddique aged 26 years. However, the victim was not found at the hospital. The victim's phone number was not reachable and it was learnt that she was referred to Higher Centre for further treatment and thus, the MLC was kept pending. Subsequently, upon establishing contact with the victim on her mobile, it was found that she is under treatment at Jeevan Mala Hospital, New Rohtak Road Karol Bagh, Delhi.

3.1. Accordingly, the Investigating Officer ('I.O.') had reached the said hospital and on 09.08.2022, recorded the statement of the victim/complainant who had stated that she got married to the Applicant/accused i.e. Juail Siddique a year ago. The victim stated that on the day of incident i.e. 08.08.2022 when she had reached near Banjara Masjid, Rakhi Market, in front of Zakhira Gate, she saw the accused was coming towards her holding a plastic mug in his hand which contained water-like substance and he/Juail said that he will spoil her face by pouring this substance, which is an acid; and then he threw the acid on her face. Immediately, thereafter when she started screaming loudly, the Applicant had fled from the spot. It is stated that thereafter her mother Sabila Khatoon took her to Acharya Bhikshu Hospital. However, as her condition was critical, she was referred to Safdarjung Hospital but due to unavailability of bed in I.C.U and as her condition was deteriorating, therefore, her mother took her to the private hospital i.e. Jeewan Mala



Hospital for getting her a treatment. Subsequently the complaint was registered and investigation was initiated.

3.2. It is stated that during investigation it was found that five (5) other child victims present at the spot also got injured due to the acid thrown by the Applicant i.e. Juail on the complainant. All of them were given medical treatment and their statements in this regard were obtained.

3.3. It is stated that on the basis of the evidence collected during the course of investigation the Applicant/accused was arrested on 10.08.2022 and produced before the Court wherein one day Police Custody ('PC') remand was obtained from the concerned Court for tracing and arresting the acid supplier as well, however, no information could be attained in this regard.

3.4. It is stated that thereafter during the course of investigation the statement of the victim under section 164 of the Code of Criminal Procedure (CrPC) was recorded by the learned MM which corroborated with the statement recorded by the police official under section 161 of CrPC.

3.5. Furthermore, it is stated that the MLC of complainant/victim was deposited in hospital for getting final opinion of the doctors and it is mentioned on the MLC that the nature of injury sustained by the victim as 'Grievous'.

3.6. It is stated that mug recovered at the instance of accused and burnt clothes of the victim/complainant were sent to FSL and as per FSL report both were found to be containing 'Sulphuric Acid'.

3.7. As per the medical record, the victim/complainant remained hospitalized in the Burns and Plastic Surgery Block, Department of Plastic



Burns and Reconstructive Surgery, All India Institute of Medical Sciences (AIIMS) on 10.08.2022. She was diagnosed to have sustained 20% TBSA acid burn involving left side of face, chest, bilateral upper limb, abdominal and left thigh. The victim/complainant underwent debridement under general anesthesia on 23.08.2022, 08.09.2022 and 30.09.202 and she was discharged from AIIMS on 08.10.2022.

3.8. It is stated that besides the complainant, there were five (5) children at the site and the sulphuric acid also fell on the five (5) children. The said children also sustained acid burns and their MLCs were conducted.

3.9. The investigation of the case was completed and charge-sheet against the Applicant was filed. Charges have been framed. The statement of seventeen (17) witnesses have been examined and the eighteenth (18th) witness has been partly examined. The matter is next listed on 24.02.2025. And three (3) more witnesses are left to be examined, therefore, the Trial is nearing conclusion.

3.10. It is stated that in addition to the complainant who has been examined as PW-1, two of the five injured children have also stepped into witness box and have been examined as PW-11 and PW-12. It is stated that the said child witnesses have also identified the accused as the person who threw the acid on the date of the offence. It is stated that the third child witness who was examined as PW-9 has confirmed the incident of acid being thrown on the complainant and the children, however, PW-9 has not identified the Applicant.

3.11. It is stated that of the remaining two children, one child was three and a half years old and, therefore, she has been dropped as a witness. She was enlisted at serial no. 7. Her MLC is on record.



3.12. It is stated that another child, who is 8 years old and was enlisted at serial no. 6 is not traceable. So, also her MLC is on record.

3.13. It is stated that since the eye-witnesses who were injured in the incident have deposed and identified the Applicant, in such a heinous offence, the Applicant is not entitled to bail.

4. Learned counsel for the Applicant states that Applicant has been falsely implicated in the present case by the victim/complainant, who is the wife of the Applicant since her married life with the applicant was not doing well.

4.1. He states that since the investigation qua the applicant already stands concluded, the charges as well stands framed and trial is likely to take a considerable amount of time; therefore, no useful purpose would be served for keeping the applicant in judicial custody.

4.2. He further states that the Applicant should be released on bail as there are various lapses and infirmities in the investigation since the IO did not collect CCTV footage or record statements of any public witnesses etc.

4.3. He further states that there are material contradictions in the statement of the complainant/victim recorded under Section 161 Cr.P.C and Section 164 Cr.P.C. He states that as per the version of the complainant recorded under Section 161 Cr.P.C it did not mention about any other child victim and as per the version recorded under Section 164 Cr.P.C eight children are alleged to have been burned during the alleged incident, however, there is no MLC on record of 08.08.2022 in respect of the said victims/children, nor the statement of their parents has been recorded by the IO.



4.4. He further states that that there was a delay of 24 hrs in recording the statement of the victim without satisfactorily explaining the reasons for delay.

4.5. He states that as per GD Entry 100A, recorded on 08.08.2022 the acid burns were sustained by the victim at her house and not at the public place, as alleged in the subject FIR.

4.6. He states that the incident is alleged to be of 08.08.2022 and the Applicant's arrest is admittedly shown as on 10.08.2022 and recovery of the alleged mug used in the offence is also shown to have been recovered on 10.08.2022; however, the store-room register of the *malkhana* records that the alleged mug and the clothes of the Applicant/accused were deposited on 09.08.2022. He states that PW-6, the official witness has already deposed and exhibited the store-room register as Ex. Pw-6/A and has confirmed that the alleged mug and the clothes of the applicant were deposited in the *malkhana* on 09.08.2022. He states that since Applicant was arrested on 10.08.2022, it is evident the alleged mug is a planted recovery.

4.7. He states that since the complainant/victim's statement was recorded on 09.08.2022, it is unexplained that on what basis the IO carried out inspection of the alleged crime scene on 08.08.2022. He states that there is no explanation as to how the IO learnt about the spot/scene of crime on 08.08.2022.

4.8. He states that though the incident is alleged to have happened at a market place during Namaaz time, the IO has not placed on record any CCTV footage of the alleged incident though admittedly there are CCTVs



in this area. He states that moreover there is no public witness of the alleged incident though it happened in broad day-light.

4.9. He states that a perusal of the statements of the child witnesses i.e, PW-11 and PW-12 shows that the said children are known to the complainant and in their cross-examination they have admitted that the complainant tutored them.

4.10. He states that there is no criminal antecedent against the Applicant and as such there are no chances of the Applicant absconding or fleeing if he is admitted to bail.

4.11. He further states that the applicant undertakes to join investigation as and when directed by this Court or as required by the police officials /IO.

5. Mr. Laksh Khanna, learned APP for the State opposes the regular bail application. He states that the Applicant herein has been accused in commission of an offence, which is very grave and heinous in nature.

5.1. He states that the case of the prosecution is well-established and corroborated by the eye-witness testimony and medical evidence in the form of MLCs of the complainant as well as the minor injured victims.

5.2. He states that all the five children, who were injured by the sulphuric acid were medically examined on 10.08.2022 and there MLCs have been placed on record. He states that PW-11, who is 10 years old and PW-12, who is 12 years old have categorically identified the Applicant as the assailant who threw the acid on the date of the offence. He states that there is no cross examination of the said witnesses on the point that they did not suffer injuries. He states that the credibility of these witnesses is not affected due to the fact they are known to the victim as the cross-examination shows that their statements are consistent, reliable and



coherent. In this regard, he relied upon the judgment passed by the Supreme Court in **Baban Shankar Daphal v. State of Maharashtra**¹.

5.3. He states that contention of the learned counsel for the Applicant with respect to the inconsistency in the timelines of the investigation will be explained by the IO, when he steps into the witness box. He states, however, in this case direct testimonies of the eyewitnesses, who were injured during the commission of the offence has come on record and it bears out the case of the prosecution. He states that the testimonies are corroborated with the medical evidence of the injuries suffered by the said witnesses. He states that in light of the testimonies of PW-1, PW-11 and PW-12, the defect if any in the investigation of the IO would have to be disregarded. In this regard, he relies, upon the judgment of the Supreme Court passed in **Dhanaj Singh @Shera & Ors. vs. State of Punjab**². He also relies upon the judgment passed by the Supreme Court in **Abdul Sayeed v. State of M.P.**³ to contend that the testimonies of injured eyewitnesses i.e., PW-1, PW-11 and PW-12 herein is to be accorded high status of reliability.

5.4. He states that there is a reasonable likelihood that the applicant may abscond or flee and evade the process of law.

5.5. He states that previously three regular bail applications of the Applicant filed before the Trial Court have already been dismissed and besides that there has been no change in circumstances which could evidence that Applicant is not involved in commission of such grave offence.

¹ 2025 SCC OnLine SC 137 [Paras 28, 29 and 30]

² (2004) 3 SCC 654 [Paras 5, 6 and 7]

³ (2010) 10 SCC 259 [Paras 28 to 31]



6. This Court has considered the submission of the parties and perused the material on record.

7. Principles pertaining to grant of bail have been elucidated in **Prahald Singh Bhati v. NCT of Delhi**⁴, wherein Supreme Court held that the bail jurisdiction has to be exercised cautiously by relying upon the well-settled principles and having regard to facts and circumstances of the case. The relevant portion of the judgment reads as under:

“8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not excepted, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

(‘Emphasis Supplied’)

8. Furthermore, elucidating on the relevant considerations which the Court while granting bail must bear in mind, the Supreme Court in **Ishwarji Nagaji Mali v. State of Gujarat**⁵ has observed as under: -

“10. In *Anil Kumar Yadav v. State (NCT of Delhi)* (2018) 12 SCC 129: (2018) 3 SCC (Cri) 425], it is observed and held by this Court that while granting bail, the relevant considerations are:

(i) nature of seriousness of the offence;

⁴ (2001) 4 SCC 280

⁵ (2022) 6 SCC 609



- (ii) character of the evidence and circumstances which are peculiar to the accused;
- (iii) likelihood of the accused fleeing from justice;
- (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and
- (v) likelihood of his tampering.”

11. Emphasising on giving brief reasons while granting bail, it is observed by this Court in *Ramesh Bhavan Rathod* [*Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana*, (2021) 6 SCC 230] that though it is a well-settled principle that in determining as to whether bail should be granted, the High Court, or for that matter, the Sessions Court deciding an application under Section 439 CrPC would not launch upon a detailed evaluation of the facts on merits since a criminal trial is still to take place. It is further observed that however the court granting bail cannot obviate its duty to apply a judicial mind and to record reasons, brief as they may be, for the purpose of deciding whether or not to grant bail. It is observed that the outcome of the application has a significant bearing on the liberty of the accused on one hand as well as the public interest in the due enforcement of criminal justice on the other and the rights of the victims and their families are at stake as well and therefore while granting bail, the court has to apply a judicial mind and record brief reasons for the purpose of deciding whether or not to grant bail.”

(‘Emphasis Supplied’)

9. In the aforesaid judgment the Supreme Court has observed that while granting bail the liberty of the accused on one hand and the rights of the victims and their families have to be given due regard. Recently, a Co-ordinate Bench of this Court in **Vaibhav Kumar v. State (NCT of Delhi)**⁶ while dealing with an application for bail in the case of acid attack has deliberated that the role of the Court in granting and denying bail is of vital significance vis-à-vis rights of victims. The relevant paragraphs read as under: -

⁶ 2023 SCC OnLine Del 5452



“26. Bail orders passed by the Courts play a crucial role in **shaping societal perceptions and behaviours**, as they reflect the judiciary's stance on specific matters and can serve as deterrents to certain offenses. It is essential for the Courts to bear this responsibility in mind when deliberating on bail applications.

27. This Court remains acutely conscious of the far-reaching consequences of its decisions, particularly in cases involving heinous crimes such as acid attacks. These acts of violence not only inflict physical and psychological trauma on victims but also sow seeds of fear and insecurity in society. Hence, it is essential that the Court establishes a formidable deterrent against such offenses.

28. This Court notes that **Acid attacks, characterized by their sheer brutality and devastating consequences, are among the most grievous crimes in contemporary society.** These attacks often result in life-altering injuries, causing not only physical pain but also emotional scars that may never heal, like in the present case, wherein the victim suffered 41% disability in her right eye. Moreover, acid attacks send shockwaves through communities, spreading fear and anxiety. **In this context, the Court's role in granting or denying bail is of vital significance.**

29. In conclusion, bail orders passed by the Court have a far reaching effect on the society which can be at times beyond an individual case at hand. Such orders have to carry the responsibilities of the Courts towards societal expectations and serve as a means of preventing and discouraging crimes like acid attacks. The Court, cognizant of its role as a guardian of justice and a protector of society, must employ its authority judiciously to ensure a safer, more just, and compassionate world for all.”

(‘Emphasis Supplied’)

10. Applying the law laid down by the Supreme Court and this Court in the aforesaid decisions to the facts of the present case pertaining to acid attack, this Court is of the opinion that the testimonies of the injured eye-witnesses i.e., PW-1, PW-11 and PW-12, who survived the acid attack and have identified the Applicant as the assailant, makes out a strong *prima facie* case to believe that the accused has committed the offence.



11. This Court finds merit in the submission of Mr. Khanna, learned APP that the fact PW-11 and PW-12, the child witnesses are known to the complainant does not affect the credibility of the said witnesses, as their testimonies read as a whole are *prima facie* reliable, coherent and consistent. The reliance placed by learned APP on the judgments of **Baban Shankar** (supra) and **Dhanaj Singh** (supra) are apposite. There is no dispute that the said child witnesses were injured and sustained acid burns. Their MLCs of 10.08.2022 also bears out that they suffered injuries.

12. The injuries suffered by the complainant/victim have been opined in MLC to be grievous. The complainant remained hospitalized for 59 days after the incident at AIIMS and even during her testimony on 14.10.2023, the Trial Court has recorded that the scar marks are visible on the left side of the face and in the left entire arm of the complainant. It is *prima facie* a case of permanent disfiguration of face which amounts to an offence of a heinous nature under section 326A of IPC.

13. The fear and apprehension against the accused in the mind of the complainant/victim, who has suffered the acid injuries cannot be comprehended by this Court; and if the Applicant is released on bail the fear which the complainant may have of being attacked again cannot be ignored. So also, the fear and apprehension which the child witnesses who have already deposed i.e., PW-9, PW-11 and PW-12 on seeing the Applicant/accused at large cannot be fathomed.

14. In this case, looking at the viciousness of the attack on the complainant, this Court is unable to satisfy itself that there is no likelihood of the offence being repeated by the Applicant.



15. At this stage, the discrepancies pointed out by the learned counsel for the Applicant w.r.t the investigation, which unfolded between 08.08.2022 to 10.08.2022 is not sufficient to dislodge the weight of testimonies of the injured eyewitnesses, which are corroborated with medical evidence. Be that as it may, the effect of those discrepancies will be considered by the Trial Court while deciding the matter finally after the evidence of the IO has also been led at trial.

16. The Trial is nearing conclusion, as only three (3) witnesses remain are left to be examined. The trial has progressed well in this case and therefore, this is not a case of long incarceration of an under-trial.

17. In view of gravity of offence, manner of commission of offence, role of the Applicant, nature of injury apprehension of the injured victims and strong possibility of fleeing justice, this Court is not inclined to grant bail to the applicant.

18. Hence no ground for bail is made out to the Applicant.

19. Accordingly, the present bail application stands dismissed.

20. Pending applications, if any, stands disposed of as infructuous.

21. It is clarified that the observations made in the present judgment/order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial. The said observations should not be taken as an expression of opinion on the merits of the case.

22. Mr. Khanna learned APP has drawn this Court's attention to the judgment passed by the Division Bench of this Court in **Preeti v. State**⁷ wherein the Court also took judicial notice of the '*Avlamban Fund Scheme, 2024*' formulated by GNCTD for meeting the rehabilitative and ancillary

⁷ Bail Appln. 1230/2204



expenses of acid attack victims. The Court has directed that the said scheme has become effective w.e.f. 28.11.2024. The IO is directed to inform and apprise the victim/complainant about the said scheme and her entitlement to apply there under. A compliance report in this regard be filed within 2 weeks from today.

23. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JANUARY 24, 2025/msh/ms

[Click here to check corrigendum, if any](#)