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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3094/2024

PRAKASH @ CHINU @ AKASH

.....Petitioner

Through: Mr. Pradeep Chowdhary, Mr. Gaurav Kapoor, Mr. Vikrant Chowdhary, Mr. Diwanshu Sehgal, Mr. Anas and Mr. Jaidev, Advocates.

versus

STATE GOVT. NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
SI Satvender, PS SP Badli.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

26.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeks regular bail in case FIR No. 761/2019, under Sections 307/34 of the IPC, registered at P.S. Samaipur Badli.
3. The case of the prosecution as per the status report dated 13.02.2025 authored by the SHO P.S. Samaipur Badli is as under:-

“1. Most respectfully it is submitted that on 30.10.19, an information vide DD No. 6-A was received at PS S. P. Badli that Kunal S/o Sarvan R/o Rohini Jail, Delhi has been admitted in Dr. BSA Hospital with A/H/O stab injury, incised wound present on chest (L- Side) Approx 1.5 cm X 0.5 cm, incised wound present on chest left side approx 1 cm X 0.5 cm, incised wound present on central region of chest approx 0.5 cm & Depth to be ascertained by surgery SR. In the meantime, information vide DDNo. 9-A was also received that Kapil S/o Mubarak & Manish S/o Ram Niwas both R/o Rohini Jail has also been admitted in the Hospital. Upon enquiry, it was found that a brawl took place inside Rohini Jail. After that, SI Rajkumar reached at Rohini Jail where Dy.



Suptd., Rohini Jail gave an intimation that Kunal @ Samir S/o Sarwan Kumar, Kapil @ Akhil S/ Mubark and Pritam S/o Ravinder had been assaulted by other inmates (1) Manish @ Makda S/o Ram Niwas, (2) Pinku @ Abhishek S/o Sohan Singh, (3) Nashruddin @ Sashru S/o Akbar @ Kala, (4) Khyali @ Khushi Ram S/o Bhajan Lal, (5) Kuldeep Singh Yadav S/o Jabar Singh, (6) Prakash @ Chinu S/o Daulat Ram, (7) Karamveer S/o Sohan Lal & (8) Himanshu S/o Mukesh Kumar by using surgical blades, handmade Sua and knife (Aluminium Patti). On this SI Rajkumar recorded the statement of Injured Pritam S/o Ravinder R/o F-144/A, Sanjay Colony, Bhati Mines, Mehrauli Delhi who stated that he was lodged in the Ward No. 6, jail No. 10, Rohini Jail with Kunal @ Samir S/o Sarven Kumar R/o 33/274 TrilakPuri, Delhi and Kapil @ Akhil s/o Mubark R/o H. No. B-7, Kh. No. 786, Kailash Vihar, Kirari, Delhi. On 30.10.19 (1) Manish @ Makda S/o Ram Niwas, (2) Nashruddin @ Sashru S/o Akbar @ Kala, (3) Kuldeep Singh Yadav S/o Jabar Singh, (4) Prakash @ Chinu S/o DaulatRam came inside the barrack and started assaulted Kunal with surgical blades, handmade Sua and knife (Aluminum patti). When he along with Kapil tried to save Kunal, they were also assaulted. He further stated that remaining 4 co-accused persons (1) Khyali a Khushi Ram S/o Bhajan Lal (2) Pinku @ Abhishek S/o Sohan Singh, (3) Karamveer S/o Sohan Lal & (4) Himanshu S/o Mukesh Kumar were guarding the barrack by bolting the gate from outside so that no one came to save them.

2. That on the basis of statement of Pritam, case FIR No. 761/19, u/s 307/34 IPC, PS S. P. Badli was registered.”

4. Learned counsel appearing on behalf of the applicant submits that out of three material witnesses, *i.e.*, Pritam and Kapil, have been examined as PW-1 and PW-2 respectively and Kunal who was supposed to be the target of the assault has been dropped as he is not traceable. It is further submitted that out of 23 witnesses only 7 witnesses have been examined so far and the applicant has been in custody since 18.11.2019. It is further submitted that PW-1 and PW-2 in their cross-examination subsequently, have not supported the case of the prosecution *qua* the identification of the present applicant. It has further come on record that the CCTV footage of the barrack which was inside the ward was never supplied to the Investigating Officer. On the other



hand, the CCTV footage which was of the gate of the said ward in which the barrack was situated was supplied, wherein, the present applicant was not seen.

5. *Per contra*, learned APP for the State submits that PW-1 and PW-2 in their examination-in-chief before the learned Trial Court have supported the case of the prosecution with regard to assault by the present applicant along with the other co-accused persons.

6. Heard learned counsel for the parties and perused the records.

7. A perusal of the statements of PW-1 and PW-2 recorded before the learned Trial Court would reflect that they have supported the case of the prosecution in their examination-in-chief, however, in their cross-examination, with respect to identification, they have stated that the applicant was identified at the instance of the police and the attackers were wearing masks. The effect of the aforesaid testimonies and the cross-examination will be examined by the learned Trial Court on completion of the trial. It is a matter of record that out of 23 witnesses only 7 have been examined so far. The applicant has been in custody since 18.11.2019 and has undergone incarceration for a period of 5 years, 2 months and 10 days as on 05.02.2025. It is further stated that the applicant is involved in various other offences, *i.e.*, in FIR No. 163/2016, under Sections 356/379/411/34 of the IPC, registered at P.S. Connaught Place and FIR No. 332/2016, under Sections 302/307/323/34 of the IPC, registered at P.S. Pahar Ganj in which he is on bail.

8. As per the nominal roll dated 06.02.2025, the present applicant was released on interim bail from 22.11.2023 to 01.12.2023 and he had surrendered without misusing the liberty granted to him. Further, as per the nominal roll, the applicant has been convicted in FIR No. 847/2015, under



Sections 356/379/34 of the IPC, registered at P.S. Pahar Ganj and has been sentenced for the period already undergone. It is also noted that the co-accused, Khyali @ Amit has been granted bail by a Coordinate Bench of this Court in **BAIL APPLN. 3508/2020** vide order dated 11.11.2020 and other co-accused persons, namely, Karamveer and Himanshu and Pinku @ Abhishek (since passed away) have also been granted bail.

9. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 15,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
- vi. The applicant shall report to the SHO, P.S. Samaipur Badli once in a week, *i.e.*, on every Friday at 02:00 P.M. and the concerned officer is directed to release him by 03:00 P.M. after recording his presence and completion of all the necessary formalities.



10. The application is allowed and disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
13. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
14. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 26, 2025/sn/sc

Click here to check corrigendum, if any