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

+ **BAIL APPLN. 3058/2025 and CRL.M.A. 23693/2025**

VIKAS SAROJ

.....Petitioner

Through: Mr. Bharat Bhusan, Ms. Riya
Jha and Jyoti Tyagi, Advocates.

versus

THE STATE NCT OF DELHI

...Respondent

Through: Mr. Sanjeev Sabharwal, APP
for the State with SI Prashant,
PS-Kanjhawala.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

13.08.2025

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1. The instant bail application is, *inter alia*, for grant of Anticipatory Bail in FIR No. 517/2024 under Sections 109(1) (Attempt to Murder), 3(5) (in furtherance of common intention) and 61(2) (Criminal Conspiracy) of BNS and 27 of Arms Act, registered at P.S. Kanjhawala. Under challenge is also an order dated 16.05.2025 passed by Ld. ASJ, Rohini Courts, *vide* which earlier application seeking anticipatory bail was dismissed.

2. Briefly speaking, per FIR, the case set up by the prosecution/complainant is that:

2.1 The complainant's father runs a Rexine foam godown for shoes



and slippers at Gali No. 6, near Husani Masjid, Meer Vihar, Delhi, where about seven labourers are also residing. On 31.10.2024, being the occasion of Diwali, the complainant visited the godown, distributed ₹1,500 to each labourer, and joined them in playing cards.

2.2 At about 11:50 PM, three boys entered the godown, one of them armed with a pistol. On being questioned, the armed boy fired at complainant with intent to kill. The bullet grazed the complainant's left eye and also hit one labourer, Aditya Raj, on the palm of his left hand. The assailants thereafter fled, leaving behind a scooty with its key inserted.

2.3 Immediately thereafter, one labourer informed the complainant's father, who in turn conveyed the matter to Dayashankar and the police. Meanwhile, the complainant's brother Ranjeet and labourer Gulshan took the complainant and the injured Aditya Raj to Sanjay Gandhi Hospital, Mangolpuri, for treatment. The complainant further stated that he can identify the boy who fired upon him as well as his two accomplices.

3. In the aforesaid backdrop I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would argue that the petitioner has been falsely implicated in the present case on the strength of disclosure statements made by co-accused persons, which by themselves are inadmissible and unreliable, particularly when they lack corroboration from any independent or material evidence.



4.1 As per the disclosure of co-accused, the petitioner's name, father's name and address were already known to the prosecution and the complainant, since he resides in the same locality. In such circumstances, the authenticity and necessity of TIP is questionable. Further, in the case of co-accused Gulshan, TIP had failed owing to the witness having seen him after a delay of four months, thereby casting serious doubt on the reliability and feasibility of TIP. Moreover, the complainant had already seen the petitioner at the police station during investigation, making a fair TIP impossible.

4.2 The CCTV footage relied upon by the investigating agency does not show the petitioner participating in the commission of the offence, but merely allegedly standing outside the premises, negating any active or conspiratorial role. The complainant himself has categorically stated that only three persons entered the warehouse and committed the offence, and by his own admission, the petitioner was not among them.

4.3 That both co-accused Sanjeet and Gulshan, who were allegedly more directly involved in the incident, have already been granted regular bail by learned Sessions Court, Rohini *vide* an order dated 07.03.2025 and by learned ASJ, Rohini Courts, *vide* an order dated 15.04.2025 respectively. The petitioner, whose alleged role is at best marginal, thus deserves the benefit of parity.

4.4 That the petitioner was never arrested during investigation. The police have neither summoned him for custodial interrogation nor



produced any material to show that such interrogation is necessary after filing of the charge sheet. On the contrary, he has already joined investigation pursuant to an order dated 09.05.2025 of this Court, thereby showing complete willingness to cooperate. His voluntary compliance negates apprehensions of non-cooperation or evasion of law.

4.5 That the petitioner has no prior criminal antecedents and is a permanent resident of Delhi with strong roots in society. He undertakes to cooperate fully with the investigation and trial, to comply with all conditions that may be imposed by this Hon'ble Court, not to tamper with evidence, not to contact any witness, and not to influence the course of justice. His conduct, character and willingness to abide by law provide adequate assurance that his release will not prejudice the prosecution in any manner.

4.6 That the charge sheet in the present case has already been filed, and investigation has substantially concluded, leaving minimal scope for further custodial interrogation. Since no incriminating recovery has been made from or at the instance of the petitioner, further custodial detention is untenable and disproportionate. At this stage, apprehension of arrest would amount to pre-trial punishment and serve no useful purpose.

4.7 That the police have been repeatedly visiting the petitioner's residence at odd hours, threatening arrest and causing mental harassment to him and his family.



5. The learned APP for the State strongly opposes the applicant's bail application. He submits that the Test Identification Parade (TIP) of the applicant is still required, and that if released on bail, there exists an apprehension that he may jump bail, threaten witnesses, or tamper with the evidence.

6. Learned counsel for the applicant would also draw my attention to the allegations contained in the FIR and the prosecution case set up therein, to contend that neither the applicant fired any bullet shot nor even otherwise he was present at the scene of occurrence nor even otherwise there is any injury suffered by the victim nor the complainant informer has attributed any role either covert or overt to the applicant so as to implicate him in any manner.

7. Notwithstanding, merely because one of the co-accused is an acquaintance of the applicant, he is unnecessarily being suspected by the Investigating Officer (I.O.) of being involved in the incident. He would submit that in case the GPS details of the mobile phone are sought from the service provider of the mobile network the same will also reflect that applicant was nowhere in the vicinity of the scene of occurrence.

8. He also relies on section 480 of the BNSS and states that in light of the same applicant be granted bail as the mere fact that an accused person may be required for being identified by witnesses during investigation cannot be a ground to deny bail.



9. Having heard the counsel for the applicant and learned APP and after perusal of the order dated 16.05.2025 passed by the learned Sessions Judge, I am one with the opinion expressed by the learned Sessions Judge therein. For ease of reference, the relevant of the impugned order dated 16.05.2025 passed by the learned ASJ is reproduced below:

“8. During the course of the investigation, some of the accused persons were arrested including Sanjeet and Gulshan. As per the report of the IO, the applicant was standing outside the godown to guard and he was in the contact with co-accused Gulshan. It is stated that the weapon of the offence are not yet recovered.

9. The TIP of the accused from the eye witnesses is to be conducted.

10. Considering the facts above mentioned, role attributed to the accused/applicant and the necessity of the judicial TIP of the applicant, this is not the fit case for the grant of anticipatory bail. Accordingly, the present application is hereby dismissed.”

10. Moreover, though the applicant was standing outside the godown, as claimed, and the incident took place inside as per the prosecution, but since the eye-witnesses states that, in case, if the TIP is conducted he would be in a position to further elaborate whether the applicant is the one who was one of the three assailants or not. In view thereof, at this stage, I am of the view that any concession, if granted, is likely to adversely affect the course of investigation.

11. Furthermore, learned APP informs that the applicant is stated to be absconding and further submits, under the instructions of the IO, that



in fact PO proceedings have in fact been initiated against him. Therefore, on that ground alone, the application in hand deserves to be dismissed.

12. In the parting, I may add here that the reliance placed by learned counsel for the applicant on Section 480 of BNSS is completely misplaced, as the very opening line of the said Section envisages that the proviso contained therein is applicable only in those cases where a suspect is either arrested or is otherwise under detention in accordance with law.

13. In view of the aforesaid, no ground for bail.

ARUN MONGA, J

AUGUST 13, 2025

Kd/rs/sv