



2025:DHC:2812



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 22.04.2025*+ **BAIL APPLN. 3329/2024****VICKY @ PUBJI**Petitioner

Through: Mr. Arpit Jain, Adv.

versus

STATE GOVT OF NCT OF DELHIRespondentThrough: Mr. Satish Kumar, APP for
State with ASI Yoginder
Parsad, PS Mayur Vihar**CORAM:****HON'BLE MS. JUSTICE SHALINDER KAUR****SHALINDER KAUR, J.(ORAL)****CRL.M.A. 27906/2024 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. By way of the present petition under Section 439 read with Section 482 of the Criminal Procedure Code, 1973 (CrPC) filed by the petitioner, seeks regular bail in FIR no. 141 of 2023 for offence under Sections 392/397/411/34 of the Indian Penal Code, 1860 (IPC) registered at Police Station Mayur Vihar, Delhi.
4. It is the case of the prosecution that on 23.04.2023, at approximately 10:00 PM, a PCR call was received at Police Station



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Mayur Vihar, wherein it was reported that, while the informant was seated in a park near Fraser Suite Hotel, Chilla Village, Mayur Vihar, she was approached by 5–6 persons who put a knife to her throat and took her mobile phone.

5. Thereafter, the police reached the spot and met the complainant, who stated that she, along with her friend, was eating food in the park situated in front of Sai Mandir, Chilla Village, when 3–4 boys approached them and put a knife on the neck of her friend, Raghav Tiwari. Another boy held both her hands, and one among them instructed an individual named Manish to blade this girl. Subsequently, they robbed a OnePlus 6 mobile phone belonging to her friend Raghav, as well as her own Samsung Galaxy A52 mobile phone, and ran away from the spot. Thereafter, an unknown person informed them that the names of two of them were Sandeep and Manish, and that they were residents of Chilla Village, Delhi. Consequently, the present FIR was registered, and the statement of the complainant's friend, Raghav, was recorded under Section 161 of the Cr.P.C.

6. During the course of investigation, on 25.04.2024, accused Sourav, S/o Sh. Santosh Chaudhary, was arrested in the present case, and one OnePlus mobile phone (black in colour) was recovered from his possession. On 26.04.2024, co-accused Manish, S/o Sh. Suresh Paswan, was also arrested in the present matter. In his disclosure statement, he stated that he had taken the robbed Samsung mobile phone from one Vicky @ Pubji (petitioner herein).

7. Upon rejection of the anticipatory bail application filed by the



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petitioner, on 30.05.2023, the petitioner surrendered before the learned Trial Court and was formally arrested in the present case, however, the petitioner refused to participate in the TIP proceedings.

8. During the course of investigation, it was found that accused Sameer @ Chand had placed a knife on the neck of the complainant's friend, Raghav and accused Manish had held both hands of the complainant; the petitioner had instigated to blade the complainant and had also robbed her mobile phone; while accused Sourav had robbed the mobile phone belonging to the complainant's friend, Raghav.

9. Subsequently, the Charge-Sheet and Supplementary Charge-Sheet were filed before the learned Trial Court. The case is presently at the stage of recording prosecution evidence.

10. The bail application was moved on behalf of the petitioner before the learned Additional Session Judge 03, Karkardooma Courts, Delhi which was dismissed *vide* order dated 27.07.2024. The petitioner has now approached this Court to seek regular bail.

11. The learned counsel for the petitioner submits that the petitioner is neither a previous convict nor is he involved in any other criminal case. He submits that that nothing has been recovered from the possession of the petitioner and that the learned Trial Court has already framed charges, and against the petitioner the charge is framed under Section 392 read with Section 34 of the IPC.

12. He further submits that the main witness, Raghav Tiwari, has been examined and the he has not supported the case of the



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prosecution. Moreso, the examination-in-chief of the complainant has also been concluded and her cross-examination on behalf of the petitioner stands completed. Therefore, there exists no likelihood of tampering with the said witness or influencing the evidence. He further submits that there are material contradictions in the testimony of the complainant which would further damage the prosecution case.

13. The learned counsel submits, to impress upon the submission that the petitioner is not flight risk, urged that the petitioner had himself surrendered before the learned Metropolitan Magistrate, Karkardooma Courts, Delhi. Accordingly, he prays that in totality of the circumstances as the trial is going to take long before it is concluded, the petitioner be released on bail in the present case.

14. Mr. Satish Kumar, the learned APP, at the outset submits that despite information given by the Investigating Officer (IO), the complainant is not present today, though the IO was assured that she will appear.

15. Perusal of record shows that on the last date of hearing also the complainant had shown unwillingness to appear as her sister was in hospital. It appears that the complainant is not interested to be heard with respect to the bail application of the petitioner.

16. Nonetheless, while opposing the present bail application, the learned APP submits that the allegations levelled against the petitioner are grave and serious in nature. The petitioner had refused to participate in the TIP proceedings and that there is an apprehension that if released on bail, the petitioner may threaten the victim or



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witnesses and may also abscond, thereby evading the due process of law, he thus seek dismissal of the bail application.

17. Having heard the learned counsel for the petitioner and the learned APP for the State and perused the record, it emerges that the alleged incident occurred on 23.04.2023 and the petitioner had surrendered before the learned Trial Court on 30.05.2023. The role assigned to the petitioner is that he had instigated the co-accused Manish to inflict injury by blade on the complainant and has also robbed her mobile phone. The said mobile phone has not been recovered from the possession of the petitioner but one of the mobile phone was recovered from the possession of co-accused Sourav. Charge under Section 392 read with Section 34 of the IPC has been framed against the petitioner and trial is underway. Raghav, one of the material witnesses of the prosecution, has not supported the case of the prosecution with respect to the identity of the petitioner as one of the accused in the alleged incident. Also, the complainant has been examined in chief and cross examined on behalf of the petitioner.

18. As per the Nominal Roll, the petitioner is in judicial custody since 30.05.2023, that is, almost one year and eleven months. He has clear antecedents and is not involved in any other criminal case and the jail conduct of the petitioner is reported to be 'Satisfactory'.

19. In view of the conspectus of the foregoing facts, the petitioner is admitted to Regular Bail pending Trial in the subject FIR, on his furnishing a personal bond in the sum of ₹ 30,000/- with one surety bond of the like amount, subject to the satisfaction of the learned Trial



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Court / CMM / Duty Magistrate and further subject to the following conditions:

- i. The petitioner shall not leave the NCT of Delhi without prior permission of the learned Trial Court.
- ii. The petitioner shall report at P.S. Mayur Vihar every Saturday between 4:00 to 6:00 P.M. to mark his presence before the SHO/IO.
- iii. The petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- vi. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii. The petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.

20. It is made clear that no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of Bail alone.

21. A copy of this Order be sent to the Jail Superintendent



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concerned for information and necessary compliance.

22. The Bail Application is disposed of in the abovesaid terms.

SHALINDER KAUR, J

APRIL 22, 2025/SU/SK

Click here to check corrigendum, if any