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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 3454/2025 & CRL.M.A. 26980/2025,
CRL.M.A. 26981/2025

DEEPAK

.....Applicant

Through: Mr. Sumit Rawat, Mr.
Keshav Nagi and Mr.
Vishal, Advs.

versus

THE STATE GOVT OF NCT DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Om Parkash and ASI
Parmod Kumar, PS M.S.
Park.

Mr. Vikas Arora, Adv. for
the complainant with the
complainant in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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10.09.2025

1. By way of the present bail application, the applicant seeks pre-arrest bail in FIR No. 321/2025 dated 20.08.2025, registered at Police Station Mansarovar Park, for offences under Sections 110/126(2)/351(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

2. The FIR was registered pursuant to the allegation made by the complainant namely– Ankit Kumar, who stated that on 19.08.2025, when he had gone to the market to purchase medicines for his father, he was stopped by two persons, namely–Mohit and Sahil, who threatened him to either withdraw or give false deposition regarding the applicant's brother, in the case listed on 21.08.2025, wherein he had to go and depose before the Court. It is alleged that when the complainant refused, the two accused persons started abusing him and also called the



applicant. Thereafter, the accused persons including the applicant gave severe beatings to the complainant and also to two more persons who intervened in order to save him.

3. The learned counsel for the applicant submits that even though the FIR has been registered for offences under Sections 110/126(2)/351(2)/3(5) of the BNS, the injuries caused were simple.

4. He submits that the case relates to a minor scuffle and the applicant is willing to join and cooperate with the investigation.

5. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant on account of apprehension of tampering with evidence.

6. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

7. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. The Hon'ble Apex Court, in the case of ***State of A.P. v. Bimal Krishna Kundu*** : (1997) 8 SCC 104, held as under:

“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”



9. Similar observations have been made by us in a recent judgment in *State v. Anil Sharma* [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

8. It is pointed out that on a complaint given by the complainant on an earlier occasion, another case being FIR No. 230/2017 has been registered at Police Station Mansarovar Park against the applicant’s brother and the case is pending before the learned Trial Court and was listed for evidence of the complainant on 21.08.2025 in SC 46/2022.

9. The order dated 21.08.2025 in SC 46/2022 has been handed over and is taken on record. It appears that on the said date, counsel for the complainant had also apprised the learned Trial Court of the reason for the complainant’s absence, stating



that the complainant had been attacked by the applicant and was, therefore, under fear, preventing physical appearance.

10. It is also informed that the injuries were caused on the head, by beatings being given by a rod to the victim namely–Rahul and one victim, namely–Aniket was also injured with some sharp object.

11. Thus, at this stage, it cannot be stated that the injuries caused were minor. Even otherwise, apart from the applicant having allegedly caused the injuries, at this stage, also appears to have interfered with the administration of justice by trying to threaten the witness. The allegations are serious and the threat to the witness on the applicant being granted bail cannot be ruled out. The allegations of such nature do not entitle the applicant for any extraordinary relief in the nature of pre-arrest bail.

12. As noted above, the applicant has been unable to make out a *prima facie* case in his favour. Moreover, it is important to note that the FIR was only registered on 20.08.2025 and the investigation is currently at a nascent stage and therefore, the scope of further investigation being required cannot be nullified.

13. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield. Allegations at this stage do not point towards false implication of the applicant.

14. In view of the aforesaid discussion, the present bail application is, therefore, dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 10, 2025 / 'KDK'

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