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

+ **BAIL APPLN. 3546/2025, CRL.M.A. 27840-27841/2025**

FARMAN

.....Petitioner

Through: Mr. Medhanshu Tripathi, Mr. Rajeev Kumar Dubey, Mr. Tushar Tokas, Mr. Himanshu Kumari, Ms. Sandal Praveeni, Mr. Arvinde Kauyr and Ms. Aditi, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Mukesh Kumar, APP for State with Mr. Naresh Kumar Dagar and Mr. Vineet Awana, Advocates with SI Sonu Kumar and SI Sunita, PS-Shahdara.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
17.09.2025

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1. This is the fourth bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) seeking regular bail in the proceedings arising from FIR No. 351/2022 dated 1st October, 2022, registered under Sections 392, 394, 397 and 34 of the Indian Penal Code, 1860³ and Sections 25 and 27 of the Arms Act, 1959⁴ at P.S. Shahdara,

¹ "BNSS"

² "CrPC"

³ "IPC"

⁴ "Arms Act"



Delhi. Upon completion of investigation, a chargesheet was filed, wherein Section 120B of IPC was also invoked against the Applicant.

2. The Applicant's third bail application was disposed of by this Court on 21st May, 2025, in the following terms:

"1. This is the third bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (earlier Section 439 of the Criminal Procedure Code, 1973) seeking regular bail in case FIR No. 351/2022 dated 1st October, 2022, registered under Sections 392, 394, 397 and 34 of the Indian Penal Code, 1860, and Sections 25 and 27 of the Arms Act, 1959, at P.S. Shahdara, Delhi.

2. The proceedings were being adjourned for recording of the statement of the Victim/Complainant i.e., PW-1, who was partly examined on 24th October, 2024, and her remaining statement was deferred, as the report of the Forensic Science Laboratory⁵, regarding the CCTV footage relating to the incident, is still awaited.

3. In light of the above, Counsel for Applicant seeks leave to withdraw the present petition with liberty to apply afresh before the Trial Court once the statement of the Complainant is recorded.

4. Leave and liberty granted.

5. FSL is further directed to expedite the report relating to the CCTV footage. For this purpose, the concerned ACP shall follow up with the FSL.

6. The Trial Court is requested to record the remaining testimony of the Complainant as expeditiously as possible, subject to the availability of the FSL report.

7. Liberty is granted to the Applicant to renew his request for bail before the Trial Court after the testimony of the complainant is recorded. Such request shall be examined on its own merits in accordance with law.

8. All rights and contentions of the parties are left open.

9. The Court has not commented on the merits of the case.

10. Dismissed as withdrawn along with pending applications with the liberty as aforesaid."

3. Despite the fact that the FSL report of the CCTV footage is still awaited, and consequently the complainant's testimony remains incomplete,



the Applicant moved a fresh bail application before the Sessions Court. By order dated 23rd August, 2025, the same was dismissed noting that the liberty to renew the bail request was expressly made contingent upon completion of the complainant's testimony. Nevertheless, the Sessions Court, while dismissing the bail application, also formed a *prima facie* view regarding the gravity of the offence and the material gathered during investigation.

Contentions of the Applicant

4. Counsel for the Applicant argues that notwithstanding the withdrawal of the third bail application on 21st May, 2025, the Applicant is entitled to bail since the prosecution has failed to furnish the FSL report of the CCTV footage, thereby stalling the trial. It is urged that the Applicant cannot be subjected to prolonged incarceration when the delay is entirely attributable to the State.

5. On merits, it is contended that the chargesheet has been filed and during partial examination, the complainant has failed to identify the Applicant. This omission, it is argued, demolishes the case of the prosecution. It is further pointed out that one co-accused, Mansi, has already been granted bail.

6. It is further submitted that the Applicant has not misused the liberty of bail in the past, has duly surrendered before the Court, and therefore poses no flight risk. The prosecution has not demonstrated any likelihood of witness tampering or any interference with the evidence. The delay in surrendering after grant of interim bail in September 2023, it is explained, was due to the medical condition of the Applicant's mother, who is a cancer

⁵ "FSL"



patient. The Applicant was not arrested by the police but surrendered on his own before the authorities.

Contentions of the State

7. On the other hand, Mr. Mukesh Kumar, APP for the State, opposes the present bail application. He submits that the Applicant cannot be permitted to file repeated bail applications, in absence of any material change in circumstances. The Applicant's third application was withdrawn with liberty to renew only after completion of the complainant's testimony, a condition that has not been met.

8. Responding to the Applicant's contentions on merit, it is urged, that his complicity is established not only through the complainant's testimony but also from circumstantial evidence including mobile phone records and photographs recovered from co-accused Mansi's phone. Mansi's disclosure implicates the Applicant and another co-accused, Riyazuddin @Raju, in planning the offence. Further, an analysis of the CDR and CCTV footage confirms the Applicant's presence at the scene of crime.

9. The Applicant cannot seek parity with co-accused Mansi. It is submitted that the Applicant's role and degree of participation are distinct and more serious. Further, the Applicant's past conduct, particularly his failure to surrender after interim bail in September 2023, which led to him being declared a proclaimed offender, underscores the risk of absconding and weighs against grant of bail.

Analysis

10. The present petition is the Applicant's fourth attempt at securing bail. Successive applications, particularly after one has been expressly withdrawn with liberty to revive only upon a specific contingency, require the



Applicant to demonstrate either a material change in circumstances or fresh grounds that were unavailable earlier. Absent such change, repeated applications risk degenerating into a review of earlier orders, which the law does not permit.

11. While prolonged incarceration may, in a given case, amount to a change in circumstance warranting reconsideration of bail, the mere passage of time, absent any fresh development in the prosecution evidence or trial process, cannot by itself justify successive applications. Nevertheless, since detailed submissions on merits have been addressed by both sides, this Court has undertaken a *prima facie* appraisal of the material only for the limited purpose of deciding the present application.

12. It is a well-settled principle of law that, at this stage, the Court must take into account several factors, such as whether there is any *prima facie* ground to believe the accused has committed the offence, the nature and gravity of the accusation, the severity of potential punishment, the risk of the accused absconding if released, the likelihood of repetition of the offence, and the possibility of witness intimidation or tampering with evidence⁶.

13. In the present case, the allegations pertain to a serious and violent armed robbery. On 1st October, 2022, the complainant, a jeweller, was induced by co-accused Mansi to open his shop early on the pretext of purchasing a 'gold baali'. Once inside, two unknown assailants entered, lowered the shutter, and forcibly snatched the shop keys from the complainant. It is further alleged that one of the accused even brandished a pistol and, upon resistance, fired towards the ceiling, later striking the complainant on his head and eye with the weapon. The assailants thereafter



pushed him to the ground, robbed INR 20,000/- from him and fled.

14. Thus, the allegations against the Applicant are of a grave and heinous nature, involving an armed robbery executed pursuant to a premeditated conspiracy. The contention that the complainant has failed to identify the Applicant in partial examination cannot be determinative. The testimony remains incomplete; cross-examination and further evidence are yet to be recorded. The law is settled that premature evaluation of evidence at an interlocutory stage is impermissible. Further, the case of the prosecution does not hinge solely on the testimony of the complainant. They have placed reliance on multiple strands of evidence that, taken together, constitute a *prima facie* chain linking the Applicant to the alleged offence. In particular, the CDR and location analysis place the Applicant to be present at the place of the incident. Further, from the phone of co-accused Mansi, a photograph of the Applicant was also recovered, corroborating her disclosure that the robbery was planned jointly by the accused. The CCTV footage, though awaiting FSL confirmation, *prima facie* depicts the Applicant fleeing with the robbed bag. These materials cannot be discounted at this stage.

15. The Applicant's reliance on parity is misplaced. As per the FIR, Mansi's role was limited to luring the complainant to open his shop; no act of aggression was attributed to her, nor was any recovery made from her. She was also granted bail considering her personal circumstances as a young mother with no criminal antecedents. In contrast, the Applicant is alleged to have directly executed the armed robbery, to have fired a pistol inside the shop, to causing injuries to the complainant, and to have fled with the robbed articles.

⁶ *Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.* (2010) 14 SCC 496



16. The applicant does not have clean antecedents and, moreover, failed to surrender on time while on interim bail, leading to his being declared a Proclaimed Offender. These circumstances strengthen the apprehension that he poses a flight risk and may not comply with bail conditions.

17. At this stage, it may be apposite to refer to the recent decision of ***Bhagwan Singh v. Dilip Kumar alias Deepu alias Deepak and Anr.***⁷, wherein the Supreme Court emphasized that bail is a discretionary relief, to be granted or denied based on the specific facts and circumstances of each case. The relevant extract is as follows:

“11. The grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail. However, it can be noted that:

11.1. While granting bail the court has to keep in mind factors such as the nature of accusations, severity of the punishment, if the accusations entail a conviction and the nature of evidence in support of the accusations.

11.2. Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.

11.3. While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought to be always a prima facie satisfaction of the Court in support of the charge.

11.4. Frivolity of prosecution should always be considered and it is only the clement of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to have an order of bail.”

[Emphasis Supplied]

18. Applying the aforementioned legal principles, and in view of the gravity of

⁷ 2023 INSC 761.



the offence, the incriminating material gathered during investigation, and the Applicant's own conduct post grant of interim bail, this Court, at this juncture, finds no ground to enlarge the Applicant on bail.

19. Accordingly, the present bail application is dismissed along with the pending applications.

20. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

SANJEEV NARULA, J

SEPTEMBER 17, 2025

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