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

+ **BAIL APPLN. 3747/2025**

SAIF ALI

.....Petitioner

Through: Ms. Sawjhanya Shankaran, Mr.
Debayan Gangopadhyay & Ms.
Ragini Nagpal, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with SI Manoj, SI Chetan, PS
Paschim Vihar West.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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26.09.2025

CRL.M.A. 29245/2025 & 29246/2024(Exemption)

Exemption Allowed, subject to all just exceptions.

The applications stand disposed of.

BAIL APPLN. 3747/2025

1. The applicant herein is before this Court seeking regular bail, having remained under incarceration since 16.02.2025 i.e. more than 7 months, in a criminal case arising out of FIR No. 104/2025 dated 16.02.2025 for the alleged offences punishable under Sections 309(6), 3(5) of the BNS, registered at Police Station Paschim Vihar.
2. Allegation is of mobile snatching as per the FIR. On 15.02.2025, the complainant, while waiting at the bus stand near Udyog Nagar Metro Station



with his sister-in-law(Nisha), was approached by a boy alighting from the bus who attempted to snatch his mobile phone from his pocket. On the complainant's intervention, the boy's associate joined, and together they forcibly took the mobile phone. During the ensuing scuffle, the complainant sustained injuries to both wrists caused by a small piece of blade held by the accused.

2.1 Consequently, the public apprehended one of the assailants, identified as the applicant/ Saif Ali. Inspection of the spot and MLC bearing confirmed lacerations over both wrists of the complainant, leading to the registration of the present FIR and initiation of investigation. Applicant was arrested from the spot.

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

4. Learned counsel for the applicant would *inter alia* argue on the lines of grounds pleaded in the petition as below:-

4.1 That the applicant has been in judicial custody since 16.02.2025, and the investigation in the present case is complete *qua* the applicant, while the trial is still pending. She would submit that there is no useful purpose served by his continued incarceration, nor are there any reasonable grounds to apprehend that his release may threaten the integrity of the prosecution case. That the applicant has no control over, or influence on, the proposed witnesses, and there is no possibility of him tampering with evidence if released. She would argue that there is no physical evidence in the case, either in the form of recoveries or seizures, that could be tampered with by the applicant.

4.2 That there is no material connecting the applicant to the alleged



offence. She would contend that no recoveries of the allegedly stolen mobile phone have been effected from the applicant or any other person. She would submit that it was allegedly co-accused/ Salman, who is presently absconding, who took the Complainant's mobile phone and fled. That despite attempts by the police to trace the mobile phone and the co-accused using the mobile's IMEI number, neither has been located. Further, the weapon of offence, the blade allegedly used to injure the Complainant has not been recovered, even though the applicant was allegedly apprehended by the public immediately after the incident.

4.3 That although public persons allegedly apprehended the applicant at the scene, which occurred at a bus stand near a metro station, there are no independent witnesses in the present case. She would contend that no CCTV footage of the alleged incident has been placed on record, and the co-accused remains at large and even basic material, such as a bus ticket of the complainant or his sister-in-law, has not been recovered. That the prosecution has failed to place on record any physical material implicating the applicant, casting serious doubt on the veracity of the prosecution's case.

4.4 That the non-recovery of CCTV footage is particularly relevant. She would argue that despite the alleged incident occurring in a public place with multiple CCTV cameras, the case diary contains contradictions: initially, it states that a camera was found but the footage could not be obtained due to night-time, subsequently, it is stated that no CCTV camera was found.

4.5 That in terms of Section 309(6) BNS, for an act of theft to amount to robbery, hurt must be caused or attempted for the purpose of committing theft. Learned counsel would submit that a bare perusal of the present FIR



and chargesheet shows that hurt was not caused in furtherance of the alleged robbery. That the complainant's mobile phone was allegedly stolen by the co-accused/ Salman before the applicant caused any injuries and applicant's alleged act of causing hurt was in an attempt to escape a physical altercation and not to facilitate theft or carry away property obtained by theft. Consequently, the allegations do not fulfil the ingredients of Section 309(6) BNS, and at best, the case may pertain to conspiracy to commit simple robbery.

4.6 She would place reliance on the judgment of the Supreme Court in ***Mohammad Wajid v. State of U.P., SLP (Crl.) No. 10656/2022***, which clarifies that for theft to amount to robbery, hurt must be caused "for that end" i.e., in order to commit theft. She would submit that the injury alleged in the present case was not caused for that purpose, as also clarified in ***Bishambhar Nath v. Emperor, A.I.R. 1941 Oudh 476***, and ***Karuppa Gounden v. Emperor, A.I.R. 1918 Madras 821***.

4.7 That the impugned order dated 04.09.2025 passed by the learned ASJ erred in denying bail on the ground that the offence is punishable with life imprisonment. At most, the applicant could have been charged under Section 309(2) BNS, which provides for a maximum punishment of ten years. Having already undergone more than seven months in judicial custody, the applicant may therefore be released on bail.

4.8 She would urge that the investigation does not reveal any compelling evidence against the applicant, and indefinite incarceration without purpose is violative of personal liberty guaranteed under the Constitution and repeatedly upheld by the Supreme Court. She would further urge that the applicant is the sole breadwinner of his family, comprising his wife and two



young daughters aged six years and nine months. That the applicant is not a flight risk, with no prior antecedents, and this is the only case pending against him. She would thus urge that the present application is *bona fide*, filed in the interest of justice, and grave and irreparable harm would be caused to the applicant and his family.

5. Opposing the above submissions, the learned APP for the State argues that the same is *sans* merit and the applicant is not entitled to any relief at this stage, as there remains a genuine risk of him absconding, influencing or intimidating witnesses, and tampering with crucial evidence. He would further submit that applicant's earlier bail application was dismissed by the learned ASJ *vide* order dated 04.09.2025 on grounds of gravity of offence and seriousness of the allegations thus, the instant application also deserves to be dismissed.

6. Having heard, I am of the view that there may be some substance in some of the arguments addressed on merits by the learned counsel for the applicant but the same are a matter of trial. However, at this stage, in light thereof, and other reasons noted here after, it is otherwise a case for bail.

7. There is no material evidence linking the applicant to the offence. The allegedly stolen phone was taken by absconding co-accused Salman and has not been traced despite IMEI tracking. Though the applicant was allegedly caught by the public at the scene, no independent witnesses or CCTV footage have been produced, and even basic corroborative material is missing. *Prima facie* these contradictions weaken the prosecution's case.

8. I have perused the reply/report to the bail application filed by the respondent on 20.08.2025 before the session court. No explanation has been provided, either in the report or during arguments today, as to why the



CCTV footage of the incident, allegedly occurring in full public view, was not obtained. It also remains unexplained who the so-called “public” were, since none of them have been examined or joined as witnesses. The case rests solely on the complainant’s self-serving statement that his mobile phone was snatched while boarding the bus, supported only by another interested witness, his sister-in-law (Nisha). Added to this, no recovery has been effected from the applicant, thereby casting serious doubt on the prosecution’s version.

9. Be that as it may, all this is a matter of trial, but at this stage as already observed, it is a case for bail.

10. Moreover, the applicant has already remained in custody since 16.02.2025. Investigation is over *qua* him as the charge sheet has been filed on 30.04.2025, he is thus not required for any custodial investigation. The trial is moving at a snail’s pace and further continued incarceration would cause undue hardship to the applicant’s family and serve no useful purpose, especially when the trial is not likely to conclude in the near future as it violates the fundamental rule i.e. bail is the rule and jail an exception.

11. As regards the apprehension of influencing or intimidating the witnesses, absconding and tampering with evidence, there is nothing on record to support the same, rendering such apprehension illusory. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant statedly has clean antecedents and a family to support who are dependent on him for their well-being and hence not a flight risk thus, his continued detention may amount to punishment before conviction, at this stage.

12. As an upshot and taking a wholesome view of the matter, particularly



the undertaking given by learned counsel for the applicant and apart from what has been recorded hereinabove, I am of the view that it is a case of bail at this stage.

13. Thus, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

14. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

15. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 26, 2025/rs/nk