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IN THE HIGH COURT OF DELHI AT NEW DELHI

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**BAIL APPLN. 3821/2025 & CRL.M.A. 29840/2025,**  
**CRL.M.A. 29841/2025**

MAYANK

.....Applicant

Through: Mr. Vinay Kumar Dubey  
and Mr. Saurabh Singh  
Fauzdar, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,  
APP for the State with Insp.  
Sandeep Kahlkhande, PS  
New Ashok Nagar.  
Mr. Pradeep Teotia and Mr.  
Amit Kumar Dhaka, Advs.  
for the complainant.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

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**08.10.2025**

1. The present application is filed by the applicant seeking pre-arrest bail in FIR No. 790/2024 dated 31.12.2024, registered at Police Station New Ashok Nagar, for offences under Sections 110/115(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS'). The chargesheet in the present case has been filed under Sections 110/115(2)/190/191(2)/191(3)/192/105/331(6)/333/332(c)/3(5)/61(2) of the BNS.

2. The FIR in the present case was registered pursuant to receipt of information that, on the intervening night of 30/31.12.2024 a quarrel took place between two families residing at 280 Durga Mandir, Gali Kondli Village Delhi regarding a dispute over their respective shares in



the sale proceeds of ancestral land.

3. It is alleged that the brother of the applicant had a scuffle with one of the victims regarding the same dispute, whereafter, he called the applicant along with the other co-accused, whereafter, they ran towards the house of the victims while holding wooden rods and hockey sticks.

4. It is further alleged that the applicant along with his family forcefully entered the residential premises of the victims and started brutally beating them. The victims were, thereafter, taken to LBS hospital and were discharged on 31.12.2024.

5. In the statement of the victims recorded under Section 161 of the Code of Criminal Procedure, 1973, it is alleged that, the applicant gave a *danda* blow on the head of victim Savitri due to which blood started coming out from her head.

6. On 02.01.2025, the victim Savitri passed away. The post-mortem recorded her cause of death as heart failure.

7. The applicant on an earlier occasion had filed an application being BAIL APPLN. 1948/2025 seeking pre-arrest bail in present FIR. The said application was dismissed by this Court by order dated 29.05.2025.

8. The learned counsel for the applicant submits that there has been a change in circumstance subsequent to passing of the order dismissing the bail application filed by the applicant on an earlier occasion. He submits that some queries were raised by the Investigating Officer regarding the death of victim Savitri pursuant to which another medical board was constituted and they have given their opinion dated 09.07.2025, to the effect that cause of death was natural.

9. He submits that on the basis of the aforesaid opinion the learned Trial Court granted regular bail to the other co-accused persons in the present case.

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10. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the present applicant.

11. He submits that the bail application filed by the applicant on an earlier occasion had been dismissed on merits by this Court by order dated 29.05.2025.

12. He submits that despite issuance of NBW's, the applicant till date is absconding and has not joined and cooperated in the investigation of the present case.

13. He consequently prays that the present application be dismissed.

14. I have heard the learned counsel for the parties and perused the record.

15. 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 has been carried out by the investigating agency.

16. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, advertent to its previous precedents, has discussed the parameters to be considered while considering pre-arrest bail applications, in the case of ***State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104***, has 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.”

17. In the present case, it is undisputed that the bail application filed by the applicant on an earlier occasion was dismissed on merits by this Court by order 29.05.2025, wherein, this Court had noted that serious allegations have been levelled against the applicant and despite issuance of NBW’s the applicant at that stage had also not joined and cooperated in the investigation.

18. This Court on an earlier occasion after considering the arguments noted that applicant along with other accused persons had brutally beaten the victims with *dandas* and hockey sticks. The said incident



was also captured in a video footage recorded by one of the family members of the victims. It was further noted that the presence of the present applicant at the time of incident is not disputed. While the applicant appears to be not holding any *danda* in the video footage, it was apparent that he had barged into the home of the victims along with other accused persons and had brutally thrashed the victims including the deceased who could be seen bleeding badly due to the beatings given by the accused persons. It was also noted that the investigation does not seem to be carried out with an intention to injure or humiliate the applicant. The nature and gravity of the offence is serious and the incident had led to death of one of the victims.

19. The learned counsel for the applicant argued that there has been a change in circumstance in the present case. The Investigating Officer in the present case had raised certain queries regarding the death of the victim Savitri, pursuant to which a new medical board was constituted and the same had given their opinion dated 09.07.2025.

20. He further argued that on the basis of the subsequent medical opinion the learned Trial Court had granted regular bail to the other co-accused persons in the present case.

21. The applicant has not joined the investigation and has been absconding despite dismissal of his application seeking pre-arrest bail wayback by order dated 29.05.2025 and therefore cannot claim parity with other accused persons. It is settled law that the considerations for grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail. The investigation against the accused who is already in custody already takes place to certain extent. The Courts needs to be conscious of the rights of the victim while and the societal impact considering the application for bail.

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22. In regard to medical opinion, this Court does not consider it apposite to comment on the said aspect at this stage. Whether the injury caused to the victim was the reason for death could only be examined after the evidence is led. At this stage it is not disputed that serious injuries were caused to the victim. She was seen to be profusely bleeding on account of brutal beatings given by the accused persons.

23. As noted above, this Court while dismissing the bail application filed by the applicant on an earlier occasion held that serious allegations have been levelled against the applicant which led to the death of the victim Savitri.

24. In view of the above, in the opinion on this Court, medical opinion given in regard to the death of the victim and the release of the co-accused person on bail are not such change in circumstances that would entitle the applicant for being granted the extraordinary relief of pre-arrest bail specially when he has been absconding and not joined the investigation despite dismissal of his application on an earlier occasion by order dated 29.05.2025.

25. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

26. In view of the aforesaid discussion, no relief can be granted to the applicant at this stage, especially when the applicant is absconding.

27. This Court is therefore of the opinion that the applicant has not



made out a case for grant of pre-arrest bail.

28. The present application is accordingly dismissed.

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

**AMIT MAHAJAN, J**

**OCTOBER 8, 2025**

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