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

+ **BAIL APPLN. 3931/2025, CRL.M.A. 30649/2025 & CRL.M.A. 30650/2025**

ABDUR RAB

.....Petitioner

Through: Ms. Tanisha Solanki, Mr. Rajneesh Solanki, Mr. Akhil Jindal, Mr. Vinay Jindal, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam, APP for the State with S/V Abdur Rab, SI Sonal Raj, PS Bharat Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **14.10.2025**

1. The present application is filed seeking pre-arrest bail in FIR No. 545/2025 dated 31.08.2025, registered at Police Station Bharat Nagar, for the offences under Sections 109(1)/333/324(1)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The FIR was registered on a complaint made by one Mr. Yatish Kumar, who is working as a Manager in the shop where the incident took place. It is alleged that on 31.08.2025, when the complainant was present at the shop with the victim (a salesman), some persons came there and pounced on the victim. Allegedly, the assailants started attacking the victim with knives and batons on his hands, hips and other body parts before fleeing from the spot.

3. During the course of investigation, the injured victim's



statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 161 of the Code of Criminal Procedure, 1973) was recorded on 01.09.2025, wherein, he stated that the applicant was instigating the assailants to kill him from outside the shop.

4. The learned counsel for the applicant submits that the applicant has clean antecedents and he has been wrongly implicated in the present case.

5. He submits that the applicant had not inflicted any injuries upon the victim and he is also not seen in the CCTV footage of the incident. He submits that the applicant has not been named in the FIR and his complicity is suspected merely on the basis of disclosure of another accused.

6. He further submits that while the learned Trial Court had observed while dismissing the applicant's bail application that the CDR of the applicant is yet to be obtained. He submits that even if the applicant is found to be near the place of the incident at the relevant time, the same will not help the case of the prosecution as the applicant is a local resident of the area and he is also employed in the same area.

7. He submits that no recovery is to be effected at the instance of the applicant and no purpose will be served by subjecting him to incarceration.

8. *Per contra*, the learned Additional Public Prosecutor vehemently opposes the grant of any relief to the applicant on account of the gravity of the offence. He submits that the applicant has not cooperated in the investigation.

9. He further submits that the CCTV footage pertains to the inside of the shop, while the applicant is alleged to have



instigated the assailants from outside the shop

10. I have heard the counsel and perused the record.

11. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Pre-arrest bail cannot be granted in a routine manner and 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. 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.”

12. It is the case of the prosecution that the applicant was brutally attacked with knives and batons due to some old enmity with one of the accused persons. It is alleged that the applicant had instructed the assailants to carry out the attack and instigated them at the time of the incident as well.

13. It is argued that the applicant is not visible in the retrieved CCTV footage, however, as pointed out by the learned APP, as per the allegations, the applicant was present *outside* the shop while the footage captures the area inside the shop.

14. Although it is also argued that the applicant has not been named in the FIR, it is pertinent to note that the victim has made specific allegations against the applicant in his statement under Section 180 of the BNSS, which was recorded on the very next day after the incident.

15. The main thrust of the prosecution at this juncture is on the said statement. A bare perusal of the same reflects that categorical allegations have been made against the applicant in relation to him being present with some of the other accused persons prior to the incident when one of the other accused had pointed to the victim’s shop and made a gesture of stabbing. Furthermore, it is alleged that the assailants had named the applicant as one of the persons who had given instructions to kill the victim and the applicant was instigating the assailants from



outside the shop as well.

16. While the cogency of the case of the prosecution cannot be ascertained at this stage, the statement of the victim establishes a *prima facie* case against the applicant and it does not appear from the same that the applicant is sought to be falsely implicated in the present case with an intention to injure or humiliate him.

17. Merely because no recovery may need to be effected from the applicant, the same alone cannot be the sole basis for grant of pre-arrest bail.

18. It is also stressed by the prosecution that the investigation is at the nascent stage and the applicant has not cooperated in the same. The allegations are of serious nature. In such circumstances, this Court does not consider it apposite to shield the applicant as granting pre-arrest bail to him would undoubtedly impede further investigation.

19. Considering the aforesaid discussion as well as the gravity of the allegations, no ground for grant of pre-arrest bail to the applicant is made out.

20. The present application is accordingly dismissed.

21. 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.

AMIT MAHAJAN, J

OCTOBER 14, 2025/‘ck’