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

+ **BAIL APPLN. 4175/2024**

OM SAINI @ KALLU

.....Petitioner

Through: Ms. V.C. Gautam and Mr. Amar Deep,
Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
W/SI Gajal Chugh, P.S. Krishna
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

25.02.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS seeks the following prayers:

It is therefore, respectfully prayed that the Applicant/Petitioner may kindly graciously be pleased to release on bail during the pendency of this case, while calling and considering the records of the Case No. SC/289/2024, bearing FIR No. 721/23, U/S 379/34 IPC registered at PS. Krishana Nagar, in which later on Charges u/s 392/34/397/411 IPC & 25/27/54/59 Arms Act, were framed in the interest of justice.

Any other appropriate relief which this Hon'ble Court may deem fit and proper be also granted.

3. The case of the prosecution as per status report dated 31.01.2025 authored by Insp. Mukesh Rana, SHO, P.S. Krishna Nagar is that the present FIR was registered on the basis of the statement given by the complainant that on 01.11.2023 at around 10:50 PM, he along with friend Vishal Shah was on his scooty (DL-10SY0250) at A-Block Krishna Nagar and searching for some



address. It is alleged that when he had parked his scooty, he had left the key in the lock of the scooty and after some time, he saw that two unknown boys wearing masks had taken away his scooty. It is further alleged that the scooty had a brown coloured bag containing a platinum ring weighing around 5 gms, a gold ring weighing around 3.5 gms and loose diamond two packets weighing around 57 carats. It is further stated in the status report that the complainant did not chase them in the fear that they might have arms with them.

4. During the course of the investigation, the statement of the complainant was recorded under Section 161 of the Cr.P.C., wherein he stated that the accused had threatened him with a pistol and due to fear he could not give a detailed statement at the time of registration of FIR. During the course of further investigation, CCTV footage of the place of incident was found and the same was shown to co-accused Sagar who identified the present applicant. The scooty was recovered at the instance of co-accused Shiv Kumar @ Sagar and a country made pistol, one live cartridge and clothes worn at the time of offence were recovered at the instance of the present applicant. The charges in the present case have been framed under Sections 392/34/397/411 of the IPC and Sections 25/27/54/59 of the Arms Act.

5. Learned counsel appearing on behalf of the applicant submits that the present FIR was initially registered under Sections 379/34 of the IPC wherein there were no allegations of showing any arms. It is further pointed out that it is clearly stated in the FIR that two unknown persons wearing masks had taken the scooty. It is submitted that investigation in the present FIR is complete and chargesheet has been filed and the complainant (PW-1) and other witness, i.e., PW-2 have already been examined-in-chief and their further examination is deferred for non-filing of the FSL report. It is further



submitted that the applicant has no previous involvement.

6. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, submits that the witnesses, i.e., PW-1 and PW-2 clearly identified the co-accused and the present applicant before the learned Trial Court as being the preparators of the crime at the relevant time. It is further pointed out that the arms have been recovered at the instance of the present applicant. It is further submitted that the other witness, PW-2/Vishal Shah had identified the present applicant in the CCTV footage during investigation. It is therefore submitted that the bail should not be granted to the present applicant.

7. Heard learned counsel for the parties and perused the records.

8. The FIR in the present case was registered on 01.11.2023. It is clearly alleged in the FIR that two unknown persons wearing masks had taken away the scooty and therefore the FIR was initially registered under Section 379/34 of the IPC. On a pointed query, learned APP for the State, on instructions of the Investigating Officer, submits that jewellery in the present case was never recovered. It is further stated that no investigation was conducted with respect to whether the jewellery belonging to the complainant, in fact, existed and was in the scooty and only the statement of the complainant has been relied upon.

9. The nominal roll dated 19.02.2025 reflects that the present applicant has been in custody since 23.11.2023 and as on 19.02.2025, he has undergone judicial incarceration of 1 year two months and 28 days. As per the Investigating Officer, the applicant is not involved in any other previous offence.

10. In totality of the facts and circumstances of the case, the applicant is



directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
11. The application is allowed and disposed of accordingly.
12. Pending applications, if any, also stand disposed of.
13. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 25, 2025/bsr/pr

[Click here to check corrigendum, if any](#)