



2025:DHC:10485



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: November 26, 2025***+ **BAIL APPLN. 4122/2025**

SHRI SONAL JHA @ BENGALIApplicant

Through: Mr. P.N. Singh, Adv.

versus

THE STATE NCT OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State
SI Saurabh, PS- Shalimar
Bagh
SI Rajesh Kumar, PS-
Vijay Vihar**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J.**

1. The present application is filed seeking regular bail in FIR No. 368/2023 dated 05.06.2023 registered at Police Station Shalimar Bagh for offences under Sections 324/341/34 of the Indian Penal Code, 1860 (IPC).
2. Briefly stated, the FIR was registered pursuant to the allegation that the complainant/victim's mobile phone was robbed and serious injuries were inflicted on him with a sharp-edged weapon, on 05.06.2023, by three assailants, aged between 18-20 years.
3. Consequently, the aforementioned FIR was registered and the applicant was arrested on 11.06.2023.
4. After completion of the investigation the chargesheet was filed against the accused under Sections 341/307/394/397/411/34

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of the IPC.

5. *Vide* Order dated 05.02.2024, the charges have been framed under Sections 324/341/307/394/397/34 of the IPC.

6. The third Bail Application, seeking regular bail, was preferred by the applicant, which was dismissed by the learned ASJ *vide* Order dated 25.09.2025.

7. The learned counsel for the applicant submits that there is no public witness in this case nor there is any CCTV footage to establish the role of the applicant.

8. He submits that the charge-sheet has already been filed and the weapon of offence i.e. knife was not recovered from the applicant. Further, even the FSL result is still awaited.

9. He submits that the applicant is in JC since 11.06.2023 and there are 20 witnesses, out of which only 4 have been examined, the trial is not likely to be concluded in near future and hence, the present application may be allowed.

10. *Per Contra*, the learned Additional Public Prosecutor vehemently opposes the grant of any relief to the applicant.

11. He submits that the allegations are serious in nature and the complainant has endured nine stab injuries which were grievous in nature as per the MLC.

12. He further submits that the robbed mobile phone has been recovered from one Kamlesh who has stated that the same was sold to her by the accused persons. Hence it is prayed that the present bail application be dismissed.

13. Submissions heard and the material placed on record perused.

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14. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, the period of incarceration is also a relevant factor that is to be considered.

15. The allegations in the present cases are grave in nature. It has been alleged that the accused persons demanded the complainant's phone and, on being refused, they stabbed him with sharp object and then took his mobile phone. The incident is stated to have happened at a bus stop at around 01:10 AM.

16. It is, however, not disputed that there is no public witness or CCTV footage to ascertain the role of the applicant herein. Further, the applicant was allegedly identified and taken into custody on a secret information. It is alleged that the applicant pursuant to his arrest, confessed his involvement in the commission of crime and the knife used in the incident was also recovered at his instance.

17. It is the case of the applicant that he has been falsely implicated. The allegation and the defence would be tested during the course of the trial and cannot be commented upon at this stage.

18. Admittedly, the applicant is in custody since 11.06.2023

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i.e. more than 2 years and is stated to be of clean antecedents. The investigation is already complete and the chargesheet has also been filed.

19. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb*** : AIR 2021 SC 712 held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

20. While it cannot be denied that the allegations in the present case are grave in nature, the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Another*** : Crl.A.2787/2024 has observed as under:

"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be."

21. The continued incarceration of the applicant will result in the denial of her fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, when the trial is not likely to conclude in near future.

22. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a

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punishment.

23. It has also been informed that the examination of the complainant has not taken place awaiting the FSL report. Despite almost two and a half years having elapsed, the FSL report is yet to be obtained. Considering there is no timeline for the FSL report to be provided, the applicant cannot be made to suffer an indefinite incarceration only because the victim is not examined.

24. Further, the applicant is of clean antecedents, thus, even though that the complainant is yet to be examined, in the opinion of this Court, the apprehension in regard to the complainant being threatened, can be allayed by putting appropriate conditions.

25. Considering the above discussion, this Court is of the opinion that the applicant has established *prima facie* case for grant of bail.

26. In view of the above, the present application is allowed. The applicant is admitted on bail and is directed to be released on furnishing a personal bond for a sum of ₹20,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial



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Court;

- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

27. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

28. It is clarified that the observations made in the present order are only 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.

29. The bail application is allowed in the aforementioned terms.

30. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 26, 2025

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