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

+ **BAIL APPLN. 4372/2024**

AMANPREET SINGH

.....Petitioner

Through: Mr. Akshay Bhandari, Mr. Anmol Sachdeva, Mr. Kushal Kumar, Ms. Megha Saroa and Mr. Janak, Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP.
SI Rajnikant, PS: Kirti Nagar.
SI Manish, PS: Inderpuri.
SI Deepak, SO Branch/ West.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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28.04.2025

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 70/2023 registered under Sections 394/397/34 of the Indian Penal Code, 1860³ at P.S. Kirti Nagar.
2. In compliance with the directions issued on the last date, Inspector Sanjeev Dhodi, SHO, Kirti Nagar, is present in Court. He submits that the

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



lapse on the part of prosecution in ensuring the appearance of the Investigating Officer on the previous date shall not be repeated.

3. A copy of the status report has been handed over across the Board and is taken on record.

4. Briefly, the case of the prosecution is set out as follows:

4.1. On 19th March, 2023, through DD No. 41A, information was received at P.S. Kirti Nagar regarding the MLC of an injured person named Sahil. Acting upon this information, SI Deepak along with his staff reached the scene of the incident, i.e., WZ-116, Mansarovar Garden, Delhi. There, he met HC Ajay, who apprised him that upon receipt of DD No. 10A earlier that day at P.S. Rajouri Garden, he had proceeded to DDU Hospital where the victim, Sahil, was undergoing medical treatment. As Sahil was unfit for statement, only his MLC could be collected, which recorded that the patient came to casualty A/H/O stab wound injury as narrated by the victim himself.

4.2. Upon further inquiry, it was revealed that the assault had occurred near Indian Overseas Bank, Mansarovar Garden, which falls within the jurisdiction of P.S. Kirti Nagar. Accordingly, the investigation was transferred to P.S. Kirti Nagar under DD No. 41A.

4.3. The Crime Team inspected the scene, lifted forensic evidence, and retrieved CCTV footage. The footage revealed two masked individuals forcibly breaking into the victim's car, robbing, and stabbing him. The victim's mother reported that two mobile phones, a gold chain, and a wallet belonging to Sahil had been looted during the attack. Based on this information, the present FIR was registered.

4.4. Technical surveillance traced the two-wheeler used in the crime to its registered owner, Karan Singh. Upon inquiry, Karan disclosed that he had



lent the vehicle to Harpinder Singh @ Hunny on 18th March, 2023 and later, on 20th March, 2023, Harpinder Singh @ Hunny had called Karan to intimate that he had parked the vehicle in front of Karan's house. Acting on this lead, police apprehended Harpinder Singh @ Hunny and Amanpreet Singh @ Money (the Applicant) on 21st March, 2023 and recovered the said two-wheeler.

4.5. Further investigation led to the recovery of one mobile phone and a gold chain allegedly stolen during the incident, from the possession of the Applicant. The second mobile phone, the victim's wallet and the weapon of offence, i.e. the knife were recovered from the house of co-accused, Harpinder Singh @ Hunny.

4.6. During investigation, it also surfaced that a third victim, a transgender person named Ruhi, had sustained injuries in the incident. Her statement was recorded accordingly.

4.7. The doctors provided their final opinion on the MLC, categorizing the stab wound injury sustained by the victim as "dangerous."

4.8. Both accused persons refused to participate in the Test Identification Parade⁴ proceedings. However, during the TIP conducted for case properties, the victim identified his stolen belongings.

5. Counsel for the Applicant states that the Applicant has been falsely implicated and urges following in support of his request:

5.1. The Applicant has been in custody since 21st March, 2023. Investigation is complete and chargesheet has already been filed. Therefore, the continued detention of the Applicant serves no useful purpose and would amount to punitive detention at the pre-trial stage.



5.2. The prosecution alleges that the Applicant struck the victim on the head with a brick. However, this allegation finds no reflection in the medical record. The MLC attributes the “dangerous” injury exclusively to a stab wound, which, as per the prosecution’s own case, was inflicted by the co-accused. Thus, there is no corroboration of the alleged act attributed to the Applicant.

5.3. The charges framed against the Applicant are for offences under Sections 394/307/411/34 of IPC. Since, the prosecution attributes the stabbing injury to the co-accused and not to the Applicant, Section 397, as originally mentioned in the FIR is unsustainable against the Applicant.

5.4. The stolen articles (one mobile phone and a gold chain) from the Applicant were allegedly recovered prior to the recording of his disclosure statement rendering such recoveries inadmissible under the Indian Evidence Act, 1872.

5.5. As regards identification, it is argued that both Sahil and Ruhi, the eyewitnesses, in their cross-examination did not support the case of the prosecution as they stated that the perpetrators had muffled faces and could not be properly identified. This, it is argued, casts serious doubt on the reliability of identification. The Applicant emphasises that neither witness could positively identify him during investigation.

6. *Per contra*, Mr. Mukesh Kumar, APP for the State strongly opposes the Applicant’s request on the following grounds:

6.1. The offence committed is grave and heinous in nature, involving a brutal assault and robbery, thereby undermining public safety and order.

6.2. The Applicant has 4 other FIRs already registered against him for

⁴ “TIP”



similar offences. This establishes that the Applicant is a habitual offender, posing a serious threat of re-offending if released on bail.

6.3. There is no apparent reason for the victim to falsely implicate the Applicant, especially when there is no history of previous acquaintance or enmity between the two, thereby lending credibility to the victim's statement.

6.4. With respect to the issue of identification, while it is true that the assailants were initially masked, it has emerged during cross-examination that the masks slipped during the course of the incident, enabling the victim to see their faces. This, the prosecution contends, significantly weakens the defence's argument on doubtful identification.

6.5. In addition to the victim's statement and the CCTV footage, it is further submitted that crucial stolen articles, including one of the mobile phones and the gold chain, were recovered from the Applicant. This recovery of stolen property soon after the commission of the crime constitutes a strong incriminating circumstance against the Applicant, warranting denial of bail at this stage.

7. The Court has considered the rival submissions and perused the record. The investigation stands concluded, the chargesheet has been filed, and the case is now at the stage of recording prosecution evidence. As per the latest Nominal Roll, as on 1st January, 2025, the Applicant has undergone a period of incarceration of 1 year, 9 months, and 11 days. Thus, as on date, the Applicant has completed over 2 years of custody as an undertrial.

8. It is pertinent to note that although the allegations levelled by the prosecution are of a serious nature, the charges framed against the Applicant



are only under Sections 307, 394, 411 and 34 of the IPC. No charge under Section 397 IPC, which involves a more stringent sentencing, has been framed against the Applicant. This aspect assumes significance, as it indicates that the Trial Court, upon consideration of the material placed before it, did not find sufficient basis to invoke the harsher rigour associated with Section 397 of IPC. In the absence of such a charge, the bail considerations applicable to offences involving the mandatory minimum punishment under Section 397 of IPC would not strictly apply to the present case.

9. Insofar as the issue of identification is concerned, the Court is conscious that it falls strictly within the domain of trial and must ultimately be determined upon a full appreciation of the evidence led by the parties. The Court, therefore, refrains from expressing any definitive opinion at this stage. Nevertheless, for the limited purpose of forming a *prima facie* view, it is relevant to observe that in the statement recorded under Section 161 of Cr.P.C., the victim, Sahil, did not assert that he had seen the faces of the assailants. The assertion that the masks worn by the perpetrators had slipped, thereby enabling identification, surfaced for the first time during cross-examination. This inconsistency, emerging at a belated stage, casts a *prima facie* doubt on the spontaneity and reliability of the identification attributed to the Applicant.

10. Moreover, the prosecution's case linking the Applicant to the commission of the offence through the two-wheeler owned by Karan Singh also is not supported by deposition of witness. Karan Singh, during his testimony before the Court, took a departure from his disclosure statement and categorically denied having given the two-wheeler to the Applicant or



having any connection with the alleged events. Similarly, Ruhi, the second eye-witness, also turned hostile, stating that she could not identify the accused persons due to their muffled faces. Whether such testimonies, in their totality, are sufficient to sustain the case against the Applicant, or whether the said witnesses were won over or influenced after the incident, are issues that fall strictly within the domain of trial and must be evaluated by the Trial Court at the appropriate stage. At this stage, however, the shifting stance of these witnesses adds a layer of doubt that cannot be completely ignored for the limited purpose of considering bail.

11. While it is true that the MLC of the victim records the injury as “dangerous” in nature, the medical record reveals that the injury is attributable to a stab wound, which even according to the prosecution, was allegedly inflicted by the co-accused, not the Applicant. There is no independent medical corroboration linking any injury to the Applicant’s alleged act of hitting the victim with a brick.

12. Additionally, it must be noted that the recovery of the stolen mobile phone and gold chain predates the recording of the Applicant’s disclosure statement. The disclosure statement merely reiterates that the recovery had already taken place, which *prima facie*, raises doubts about the admissibility of such recovery as evidence against the Applicant, since it lacks the necessary causal connection required under Section 27 of the Indian Evidence Act, 1872.

13. As regards the aspect of criminal antecedents is concerned, the record indicates that in addition to the present case, there are 4 FIRs registered against the Applicant. However, the Nominal Roll indicates out of the 4 cases registered against the Applicant, he has been granted bail in FIR No.



58/2023 registered at P.S. Naraina and FIR No. 236/2023 registered at P.S. Subhash Place. Further, as per the Previous Conviction/Involvement Report filed by the State, the Applicant remains in judicial custody in FIR No. 46/2023 registered at P.S. Kirti Nagar. Nonetheless, the Supreme Court in ***Prabhakar Tiwari v. State of Uttar Pradesh***⁵ has observed that while the existence of criminal cases is a relevant factor for consideration, it cannot, in itself, form the sole basis for the denial of bail. Thus, mere pendency of cases does not automatically disentitle an accused from being granted bail.

14. Moreover, the Nominal Roll indicates that the overall jail conduct and the jail conduct of the last one year has been found to be satisfactory. The apprehension raised by the prosecution that the Applicant may indulge in similar criminal activities if released can be sufficiently addressed by imposing stringent conditions on the Applicant.

15. Accordingly, considering the period of custody already undergone, the stage of trial, the nature of the charges and the Applicant's jail conduct, this Court finds no justifiable reason to continue the Applicant's incarceration.

16. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or

⁵ (2020) 11 SCC 648



tamper with the evidence of the case, in any manner whatsoever;

c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;

d. The Applicant shall appear before the Trial Court as and when directed;

e. 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;

f. 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;

g. The Applicant shall report to the concerned P.S. on first Monday of every month.

17. It is clarified that the Applicant shall not be released on bail till the time he has secured bail in other cases, if required, as provided in law.

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

19. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and shall not influence the outcome of the Trial.

20. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

APRIL 28, 2025

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