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

+ BAIL APPLN. 4431/2025 & CRL.M.A. 34279/2025,
CRL.M.A. 34280/2025, CRL.M.A. 34281/2025,
CRL.M.A. 34282/2025

BRIJESH CHAURASIYA

.....Applicant

Through: Mr. Rajesh Kumar, Mr.
Arun Srivastava, Mr.
Vishwajeet Raghav and
Mr. Azad Singh,
Advocates.

versus

THE STATE GOVT
OF NCT OF DELHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Suresh Bhatia, PS
Timarpur.
Mr. Rabindra Kumar
Singh, Advocate for
complainant.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

19.11.2025

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1. The present bail application is filed by the applicant seeking pre-arrest bail in FIR No. 342/2025 dated 19.07.2025, registered at Police Station Timarpur for the offences under Sections 109(1)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The FIR was registered pursuant to a compliant made by the complainant alleging that on 19.07.2025, the complainant along with his friends was celebrating his birthday near Sanjeev Tea Stall in Gandhi Nagar. It is alleged that while cutting the cake, the applicant along with the other accused persons came



there and started abusing the complainant and his friends.

3. It is alleged that in order to avoid getting into a fight with the applicant, the complainant and his friends moved away from there. It is alleged that thereafter while the complainant and one of friends namely Sachin were going towards their room, the applicant along with the other accused persons reached there while carrying baseball bats, iron rods and hockey sticks.

4. It is alleged that, thereafter, the applicant asked the complainant whether it was his birthday to which he replied yes, whereafter, the applicant said that today will be your death day.

5. Subsequently, the applicant along with the other co-accused persons allegedly hit the complainant on his head with iron rods, due to which the complainant fell on the ground.

6. It is alleged that the friend of the complainant ran to save the complainant, whereafter, the applicant and the other co-accused persons started beating the friend of the complainant.

7. It is alleged that the applicant along with the other accused persons kept on beating the complainant and his friend, whereafter, thinking them to be dead they ran away from the spot of the incident.

8. The learned counsel for the applicant submits that a quarrel took place on the spur of the moment. He submits that the applicant is a student and should be granted extra-ordinary relief of pre-arrest bail. He submits that the applicant is ready and willing to join the investigation and custodial interrogation is not required.

9. *Per contra*, the learned Additional Public Prosecutor for the State along with the learned counsel for the complainant vehemently oppose the grant of any relief to the present

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applicant. They consequently pray that the present application be dismissed.

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

11. 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 is carried out by the investigating agency.

12. 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, in the case of ***State of A.P. v. Bimal Krishna Kundu*** : (1997) 8 SCC 104, 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.”

13. The learned counsel for the applicant contended that the applicant is ready and willing to join the investigation of the present case.

14. It is pertinent to note that only because the accused is willing to join the investigation cannot be a ground for granting the extraordinary relief of pre-arrest bail. The Court is required to look into the *prima facie* case. In case that reliefs are granted on such contention, then every accused after committing a crime will file an application for anticipatory bail stating that he is willing to join investigation and his custodial interrogation is not required. The same in the opinion of this Court is not the mandate of law. [Ref: **Sumitha Pradeep v. Arun Kumar C.K. : (2022) 17 SCC 391**]

15. Even otherwise, the victim has specifically named the applicant to be the instigator. The MLC also indicates that the victim was assaulted with a blunt object which caused injuries on his head as well as laceration wounds on the hand and both the legs of the complainant.



16. The applicant has been unable to make out a *prima facie* case in his favour. Moreover, the investigation is currently at a nascent stage and some play in the joints ought to be provided to the prosecution. It cannot be held that the investigation is being carried out with the intention to injure or humiliate the applicant and the facts do not indicate that the applicant is being falsely implicated.

17. Granting pre-arrest bail to the applicant would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

18. Gravity of offence and the nature of allegations does not entitle the applicant of the extraordinary relief of prearrest bail.

19. In view of the aforesaid discussion, considering the gravity of offence, material on record as well as the nascent stage of investigation, in the opinion of this Court, the applicant is not entitled for grant of pre-arrest bail

20. In view of the above, the present petition stands dismissed. Pending applications also stand disposed of.

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

NOVEMBER 19, 2025

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