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

+ **BAIL APPLN. 4478/2025 & CRL.M.A. 34648-34649/2025**

GULAM KHAWJA

.....Petitioner

Through: Mr. Pawan Mehta and Mr. Manan
Sharma, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for the State
along with SI Nitesh Mahiya, PS
Sagarpur.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

10.12.2025

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1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in FIR No. 594/2023 registered under Sections 307/34 of the Indian Penal Code, 1860³ and Sections 25/27 of the Arms Act, 1959 at P.S. Sagar Pur.

2. The following order was passed in the Applicant's previous bail application [*BAIL.APPLN.3542/2025*]:

1. Counsel for the Applicant, after making some submissions, seeks permission to withdraw the present petition. However, he points out that the Applicant has been in custody since, 12" February, 2024, yet charges

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



have not been framed.

2. He submits that the delay is entirely attributable to the prosecution as the FSL report is still awaited. He seeks directions to the prosecution to expedite the FSL report and prays that liberty be granted to the Petitioner to re-apply for bail once the statement of the complainant is recorded. He further prays that appropriate directions be issued for expediting the trial to that extent.

3. Having considered the above, following directions are issued: -

3.1 Leave and liberty, as prayed for, are granted.

3.2 The concerned ACP is directed to immediately follow up with the FSL for the pending report and the same be placed before the Trial court expeditiously, preferably within two months for today.

4. The Applicant's undertaking is taken on record that he shall not seek any adjournment while addressing arguments on the point of charge. Subject to the outcome of the arguments on charge, statement of the complainant be recorded expeditiously, preferably within a period of four months from today.

5. With the above directions, the application is disposed of. Copy of the order be sent to FSL, Rohini as well as the concerned DCP for immediate compliance.

3. Despite the directions issued by this Court, and notwithstanding the State's follow-up with the FSL, the report is yet to be received. In these circumstances, the Applicant has filed the present application. Since there is no change in circumstances and the FSL report remains pending, the Court has queried as to how the application is maintainable. In response, counsel for the Petitioner submits that the delay is attributable solely to the prosecution in securing the FSL report, and therefore the application deserves consideration on merits. Given that the matter concerns the personal liberty of the Applicant, this Court has proceeded to hear the application on merits.

4. The case of the prosecution, in brief, is that on 28th November, 2023, the complainant, who runs a shop in Raghu Nagar, was approached by accused Kunal for a packet of cigarettes. When asked to pay, Kunal refused and left. On 03rd December, 2023, Kunal again demanded cigarettes without



payment and, upon refusal, threatened the complainant. Later the same evening, three associates allegedly sent by Kunal arrived at the shop; two were armed with pistols and one with a knife. They informed the complainant that Kunal had directed them to “teach him a lesson” and fired two rounds, one of which struck the complainant’s left leg. During investigation, Kunal was arrested on 12th December, 2023, and purportedly disclosed that he had sent his associates, Gulam @ Alle (the Applicant), Sumit @ Hemu, and Aman, to assault the complainant. On Kunal’s instance, co-accused Sumit was arrested, who allegedly confirmed the plan and led to recovery of the knife used in the offence. Both Kunal and Sumit declined to participate in TIP. The Applicant was subsequently arrested and was successfully identified in TIP.

5. Mr. Pawan Mehta, counsel for the Petitioner, submits that he has been falsely implicated in the matter. The alleged weapon was recovered nearly two months after the incident, with no explanation for this delay. The Applicant is not named in the FIR and his name surfaces only through the disclosure statement of the co-accused. It is further pointed out that there is no CCTV footage or call detail record analysis connecting the Applicant with the incident or the co-accused. He contends that the complainant’s version is doubtful, as there is nothing to show that he was operating any shop as claimed. It is also submitted that the Applicant has already undergone more than 18 months of incarceration.

6. Mr. Hemant Mehla, APP for the State, on the other hand, contends that the complainant has categorically stated that it was the Applicant who fired the shot and that he is the main assailant. The complainant sustained an injury on his knee from one of the bullets, while the second shot missed its



target. Both bullets have since been recovered, and the forensic report is awaited. It is further submitted that the complainant has identified the Applicant in the judicial TIP. He also points out that the Applicant has multiple antecedents and is implicated in 9 other similar cases. Given the nature of the offence, the manner of the assault, and the Applicant's antecedents, it is argued that there exists a real possibility of his influencing or threatening witnesses, including the complainant, thereby affecting the fairness of the trial.

7. The Court has considered the aforementioned contentions. At this stage, the Court is required only to form a *prima facie* assessment of the material on record. A crucial piece of evidence will be the forensic analysis, which, as noted above, is still awaited. On the strength of the material presently available, it emerges that the complainant has identified the Applicant, and he has been alleged to have fired the shot, which resulted in injury to the complainant. As stated by Mr. Mehla, the MLC also corroborates the firearm injury.

8. The Applicant also has multiple antecedents and is stated to be involved in 9 other cases. In view of these factors, there exists a strong apprehension that, if released on bail, he may abscond or influence witnesses. The delay in receipt of the FSL report, though a matter of concern, cannot by itself entitle the Applicant to bail in a case involving allegations of a targeted firearm assault, particularly when the complainant's identification and other material remain *prima facie* consistent.

9. The period of custody undergone, at this stage, cannot outweigh the seriousness of the allegations and the specific role attributed to the Applicant. Whether the delay in recovery of the alleged weapon is fatal to



the prosecution case is a matter to be assessed at the stage of trial.

10. Having regard to the nature of the allegations against the Applicant, gravity of offence, which as per the facts narrated by the prosecution involves a premeditated armed attack, resulting firearm injury to the complainant, the court finds no basis to enlarge the Petitioner on bail.

11. Accordingly, the application is disposed of along with pending application(s), if any.

SANJEEV NARULA, J

DECEMBER 10, 2025/MK